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PRELIMINARY REPORT  
OF THE  
MUNICIPAL COMMISSION,  
TOGETHER WITH THE  
TESTIMONY,  
MADE TO THE  
LEGISLATURE, MARCH 12, 1877.

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# REPORT.

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*To the Honorable the Senate and House of Representatives of the Commonwealth of Pennsylvania :*

The undersigned the commission appointed by the Governor in pursuance of an act of Assembly approved the 5th day of May, 1876, entitled "An Act authorizing the Governor to appoint a commission to devise a plan or plans for the government of the cities of this Commonwealth," respectfully submit the following preliminary report :

Your commission was appointed by the Governor on the fifteenth day of December, 1876, and immediately entered upon the performance of its duties by meeting at the office of the Secretary of the Commonwealth on the nineteenth of the same month, when it organized by electing B. B. Strang, chairman, and Louis Richards, clerk, and adjourned to meet in Philadelphia on the fourth day of January, 1877.

After interviews with the mayor, presidents of councils and heads of departments of the city of Philadelphia, and officers of city governments and prominent citizens of other cities, it at once became apparent that an intelligent discharge of our duties required a thorough examination of the machinery and operations of the several departments of city government and their relations one to the other.

Obvious considerations, among which may be mentioned a due regard to economy, seemed to indicate that this line of inquiry should be mainly conducted by sub-committees of our body. We have therefore thus far pursued the plan of holding only such occasional meetings of our whole commission as seemed necessary to obtain possession of the facts acquired by our sub-committees, and to indicate such further action as the developments thus made seemed to require.

Some idea of the magnitude of the work may be had when it is stated that there are in the city of Philadelphia some twenty-five separate and distinct departments of municipal government, few if any of them being accountable to any general head, which annually collect and disburse from twelve to fourteen millions of dollars raised by taxation. These departments have been created from time to time by legislative enactment, some

of them as the necessity for them developed, and some, it is feared, without any pressing occasion beyond a desire to create a lucrative office.

There has been no dissent among all who have been thus far examined, that many of these departments might be consolidated with advantage to the tax payers, and that a more thorough system of accountability would add largely to their efficiency. On the other hand, it may well happen that where a superficial examination would suggest the consolidation of certain departments, a more thorough inquiry might disclose the fact that they are so constituted under existing laws as to afford the best possible check upon each other. The investigations of the commission as to the organization of other cities in the State leads them to believe that a similar condition of things will be found generally to prevail, depending, however, very much upon the size and population of the particular city.

These, and many other considerations that might be suggested, have served to convince your commission that at the end of about two months since they entered upon their duties they are just at the threshold of a proper and intelligent investigation of the important subjects committed to their charge.

When we consider the vast range of inquiry involved, the crushing weight of municipal indebtedness under which the several cities of the Commonwealth are laboring, and the danger to which important interests may be subjected by a mere change without reform, it seems hardly worth while to suggest that but little value could be attached to the opinion of your commission unless preceded by the most thorough and deliberate examination.

It is hoped that the extent of our undertaking may be better understood when it is stated that a similar commission in the State of New York, appointed on the 22d of May, 1875, and composed of gentlemen distinguished for their legal and practical abilities were only able to make their final report on the 24th of February last. As an instance of the amount of labor which might be expected to arise from the remodeling of the form of government of a single city, it may be also mentioned in this connection that a committee of prominent citizens of Boston, acting under appointment of the mayor, were engaged for a period of over a year in constructing and reporting to the city council a revised charter for that municipality.

To conclude, then, on this topic, we have to say that it will be impossible, either in justice to ourselves, to the subject, or to the Legislature by whose authority your commission was created, for us to make a final report at this session of your honorable bodies, we will be prepared to give you the result of all the information we may be able to gather, and such recommendations as we may feel justified in making, in ample time for your consideration at your adjourned session.



In the course of the investigations of your commission, however, some facts have been elicited by them which concern the interests of the State more deeply than those of the cities of the Commonwealth. The commission deem it proper that these facts should be laid before the State authorities without waiting for the final report contemplated by the act under which they were created.

The license fees for retail liquor dealers and wholesale and retail merchants in the city of Philadelphia are collected through the city official machinery. In the course of the examinations made by the commission into the administration of certain of the affairs of Philadelphia, it has been found that the grossest frauds have been practiced upon the State in the appraisement and collection of revenue from these sources.

By the third section of the act of 12th April, 1875, the license fees to be paid by liquor dealers are as follows: "All cases where the estimated yearly sales shall be ten thousand dollars, or more, shall constitute the first class, and pay seven hundred dollars; where the estimated yearly sales shall be eight thousand dollars, and not more than ten thousand dollars, the second class, and shall pay four hundred dollars; where the estimated yearly sales shall be six thousand, and not more than eight thousand dollars, the third class, and shall pay two hundred dollars; where the estimated yearly sales shall be more than four thousand dollars, and not more than six thousand dollars, the fourth class, and shall pay one hundred dollars; where the estimated yearly sales shall be less than four thousand dollars, the fifth class, and shall pay fifty dollars.

The license fees to be paid by the mercantile classes, as prescribed by the tenth section of the act of 4th May, 1841, are likewise graduated according to the amount of annual sales of such mercantile dealers, the first or highest class including those whose annual sales amount to three hundred thousand dollars and upwards being required to pay a license of two hundred dollars, and the fourteenth or lowest class, which comprises those whose annual sales are less than five thousand dollars, being required to pay a license of seven dollars. The maximum classification of this act is enlarged by the provisions of section one of the act of 13th April, 1866, by the addition of six other classes, alphabetically designated from A to F, the annual sales of which are graduated from five hundred thousand dollars to five millions of dollars, and the amount of license required from said classes being fixed at from three hundred and fifty dollars to one thousand dollars, respectively.

These fees should all be collected by the proper officers of the city and paid into the city treasury to the credit of the State.

We annex hereto the testimony taken by the commission, together with certain exhibits marked "A," "B" and "C," comprising respectively a

statement furnished by the mayor of Philadelphia, setting forth, by police districts, the number of places at which liquor is actually sold in said city ; a statement by the clerk of quarter sessions, showing, by wards, the number of retail tavern licenses granted in Philadelphia for the year 1876, and a statement by the city treasurer, showing the number and amount of receipts for hotel licenses issued by him during the same period.

It appears from this testimony and these exhibits that the whole number of full licenses for the sale of liquors in the city of Philadelphia issued in the year 1876 was 5,020, for all of which, save two, there was paid into the city treasury the sum of only fifty dollars each—the license fee for the fifth or lowest class ; as to these two, the treasurer received for the one \$100, and for the other \$150.

From the testimony it also appears that a system of exemptions and reductions has prevailed, without oath or examination of the parties applying, without investigation, and, so far as the commission have been able to ascertain, to a large extent, without even application being made by the parties who paid the rates required from those in the lowest class.

No records of such exemptions and reductions have been kept, or if kept, the commission could not get access to them, and it will be found upon examination of the testimony submitted herewith, that the whole business has been done so loosely as to render it very difficult to know upon what officer or officers the responsibility should be affixed.

Robert C. Tittermary, one of the appraisers, says that he supposes there is not a house in the city which does not sell more than four thousand dollars worth of liquors annually, and further gives it as his opinion that there are some which sell fifty thousand.

Samuel Josephs, also an appraiser, says :

Q. There are a little over five thousand licenses granted to retail liquor dealers in this city ; how many of them, according to your best judgment, do you suppose sell less than four thousand dollars worth annually ?

A. My opinion would be that there are two-thirds of the liquor dealers, or one-half at least, who sell more than four thousand dollars worth a year.

Q. Can you give any idea of the number of such establishments in Philadelphia which sell over ten thousand dollars worth of liquors a year ?

A. I should think at least one-fifth of them.

Q. With your experience in this business, do you think the system of granting of license to retail liquor dealers is as good as it could be, or can you suggest improvements ?

A. I think the system is very imperfect. The greatest evil is the existence of a large number of places where the worst sort of liquor is sold by the half pint. Grocery stores which sell liquor are also nuisances.



If these statements are true, then it is clear that the State treasury must lose several hundred thousand dollars per annum by reason of carelessness or fraud in this system of appraisements, reductions and exemptions.

In this connection we would quote the testimony of George H. Schell, Daniel J. Donohue and James W. Paeker, an examination of which will more clearly disclose the method by which these fraudulent exemptions and reductions were obtained.

George H. Schell, says : I am private clerk for Mr. Tittermary, one of the mercantile appraisers. I am not employed in the city commissioners' office, at least I am not considered a clerk there. They pay me a salary of \$18 a month for helping them put up the election papers. I have no other occupation from which I derive a salary. Mr. Tittermary pays me up to the first of March every year \$12 a week. From the first of March to the first of June the mercantile appraisers pay me the same salary. Each of them pays a share. From the first of June to the first of December the appraisers pay me twenty-five cents on every license that comes into the commissioners' office. I mean twenty-five cents on every application made from the first of June to the last of December. Each appraiser gives me five cents. These are my only sources of income.

Q. Do you ever take out licenses for tavern keepers ?

A. I do ; the same as any constable, on my own account.

Q. How do you do it ?

A. They come there and want their licenses taken out. They give me \$3 or \$5, and I go through it just the same as any constable does.

Q. Is that arrangement made before or after the licenses are classified ?

A. The licenses I get out are mostly in the fifth class.

Q. Is the arrangement made before the classification is fixed ?

A. The arrangement is made with the parties after they are classified.

Q. Are there many tavern keepers who apply to have their licenses reduced ?

A. A great many—the majority of them.

Q. How is that process performed ?

A. They come before the mercantile appraisers and make complaint that they are classified too high ; then they are sworn as to their sales ; if their sales are less than \$4,000, they are put in the fifth class—that is if they swear their sales are less than \$4,000 ; Mr. Tittermary administers the oath always.

Q. Do you mean to say that the classification is never reduced except upon oath ?

A. No, sir ; I do not mean to say that.

Q. How is it reduced without the oath of the party ?

A. It is done as a political favor.

Q. Often?

A. Very often.

Q. To what extent?

A. Sometimes four or five a day—sometimes more, sometimes less.

Q. Would they average five a day all the year round?

A. No, sir.

Q. Have you any memoranda of persons whose licenses have been reduced after examination under oath?

A. No, sir.

Q. Are they not nearly all of them reduced without being sworn at all?

A. No, sir; they are not.

Q. I wish you to reconsider your last answer, and state whether nearly all the reductions are not made without swearing the parties?

A. They are all sworn by Mr. Tittermary, when he is there, that I have seen, without they are done as political favors.

Q. How is it when Mr. Tittermary is not there?

A. Very often the city commissioners come in and state that the party is put in too high a class.

Q. Who was sworn on behalf of the Continental hotel, when they were reduced from the first class to the fifth?

A. That question I decline to answer.

Q. Why do you decline to answer?

A. Because it might subject me to a criminal prosecution.

Q. Was any one sworn from the Girard when that house was reduced to the fifth class?

A. I decline to answer for the same reason.

Q. Who was sworn from Mr. Lauber's establishment in the Fifth ward, when he was reduced?

A. That I don't recollect.

Q. Do you mean that anybody was sworn?

A. I can't remember.

Q. Can you name any person whose classification was reduced as a political favor?

A. It is a hard matter for me to recollect, Mr. Tittermary generally did it, or one of the other appraisers, Mr. Josephs and Mr. M'Cullough often did it.

Q. Can't you tell the names of any persons who were reduced?

A. I can't tell the names of the parties, but can tell the politicians who brought them there.

Q. How was the classification of the American House reduced?

A. I don't think it was reduced; I think it was classed and licensed in the fourth class.



Q. They didn't pay you that license ?

A. I don't think they did ; I don't recollect taking it out.

Q. Who took out the license for the Continental ?

A. That I decline to answer, on the ground that it might criminate myself.

Q. How much was paid for the Continental license ?

A. I don't know.

Q. Did you not pay \$50 at the city treasurer's office for the Continental license ?

A. I decline to answer.

Q. Was there any negotiation with any of the appraisers about the Continental license ?

A. No, sir.

Q. Was the Continental's classification reduced by the appraisers ?

A. No, sir.

Q. Was it done with their knowledge, or the knowledge of any of them ?

A. Not that I know of.

Q. Was the reduction of the Girard made by the appraisers ?

A. I don't recollect that.

Q. You have said that you took out licenses for certain houses, can you state for how many ?

A. No, sir ; I can't say exactly—perhaps ten, fifteen or twenty.

Q. Can you name any of them ?

A. No, sir ; I don't recollect which they were.

Q. Was the hotel Aubry one ?

A. I decline to answer.

Q. Why ?

A. I don't recollect whether I did or not.

Q. Then you don't decline to answer on the ground that it would criminate yourself ?

A. No, sir.

Q. Can't you remember the name of one house ?

A. No, sir ; I took out several in the neighborhood of the Continental.

Q. Was the Globe one of them ?

A. No, sir ; Mr. Josephs attended to that himself.

Q. What did he pay ?

A. Fifty dollars.

Q. Was the Continental one ?

A. I decline to answer.

Q. Why ?

A. Simply on the ground that it might criminate myself.

[License bond No. 2705, of J. E. Kingsley & Co. exhibited to witness, and he is asked:]

Q. Look at this paper and say whether you ever saw it before. Did you ever see this bond?

A. I decline to answer, on the ground that I don't want to criminate myself.

Q. Do you know John Gormley?

A. No, sir.

Q. You never saw him?

A. No, sir.

Q. Is this your signature to this bond?

A. I decline to answer.

Q. On the ground that the answer would criminate you?

A. Yes, sir.

[Receipt for license to Lafayette restaurant company for \$200, dated May 15, 1876, and signed George H. Schell, exhibited to witness, and he is asked:]

Q. Is this your signature?

A. I decline to answer.

Q. On what ground?

A. On the ground that it would criminate me.

Q. Did you collect \$200 for the license at the Lafayette restaurant?

A. I decline to answer.

Q. What did you do with the money you collected from the Lafayette restaurant?

A. I decline to answer?

Q. Did you or did you not collect more than \$63 25 from the Lafayette restaurant?

A. I decline to answer.

Q. I understood you to say that by instructions of Mr. Morris, the president of the board of appraisers, all the hotels at the Centennial were rated in the fifth class?

A. Yes, sir.

Q. Is the Lafayette hotel a Centennial hotel?

A. Yes, sir.

Q. Then if any more than a fifth-class license was received from the Lafayette restaurant it would be without authority of law?

A. Yes, sir.

Q. How long have you been Mr. Tittermary's clerk?

A. Between three and four years.

Daniel J. Donohue testifies :

"I have charge of the bar and liquor department at the Continental hotel in this city. I attend to the taking out of the license. I paid the license myself for 1876 for the Continental and Trans-Continental hotels. Don't recollect what I paid for the two. I paid the licenses to a young man from the city commissioners' office; don't know his name. He brought the license book there when I paid. I paid in money. I made no appeal from the original classification. I paid \$350 for the Continental license last year, and \$400 for the year before. I never made an affidavit to have the classification reduced, nor any appeal from the classification. Nobody else had any authority to make such an appeal. Didn't know that we were rated in the first-class."

James W. Packer, the last witness referred to, testified as follows :

"I was treasurer, last year, of the hotel Aubry, at Thirty-third and Walnut streets, Twenty-seventh ward. My son was the cashier. I went to the city commissioners' office to pay the license for the hotel, and was directed by a person doing business there to go in to a clerk in the back office. I asked the clerk about the license, and he told me it would be \$275. I handed him a check; and he filled it up for that amount, payable to 'cash,' threw it in his drawer and said it was all right. I said that that might be right for him but it wasn't right for me, that it was not my way of doing business. He said he couldn't give me any receipt for the money, and went into the front office, and had a consultation with the parties there. He returned, and handed me my check back, and said I would have to go up to the Continental hotel with him. On the road he informed me that the head bar-keeper there, Mr. Donohue, had taken our license out, and that the money belonged to him. We didn't find Donohue in, and I told the clerk I would stop in in a few days and settle the matter. At about three o'clock the same afternoon I went to the Aubry hotel and found the clerk waiting there for me. He told me that he could now give me a receipt. I told him I was not ready to settle it then, but that I would stop down and settle it in a few days. I sent to the city treasurer's office and found that some parties had already taken out the license for the hotel, for which they had paid \$61 25, including expenses. I then had a resolution passed in our board forbidding anybody to pay the license; and a copy of the resolution was sent down to the clerks in the hotel. The clerk from the city commissioners' office came over to the hotel again the next day for the money for the license. The hotel clerk showed him the resolution, and he then took down the license which hung in the bar, and took it away with him. This license had been delivered before I went to the city commissioners' office the first time to pay. The next day our president and myself, fearing some trouble, went to the city treasurer's office, saw the stub



where the license had been taken out, and were assured that if proceedings were commenced the stub would be produced in evidence. We then went to see Mr. Donohue, at the Continental, and he told me that the \$275 belonged to Mr. Tittermary—that he had paid the license. I asked him to explain why Mr. Tittermary claimed \$275 when he had only paid \$61 25. He told me he thought we were getting off very cheap, that the Continental Hotel paid \$500 a year license, and the other Centennial hotels had all paid more than we had, and that it ought not to make any difference to us whether we paid it to the city or to Mr. Tittermary. I told him he had tackled the wrong man, that I was a property-owner and a tax-payer, and that if this money was paid anywhere at all it would have to be paid into the city treasury. I told Donohue that I would give him till the next day to send the license back to the hotel; that I would pay \$61 25, and no more. I stated also that if the license didn't come in that time, I would expose the whole matter, and have the clerk arrested. The clerk came out that afternoon with the license and got his money—\$61 25 for the license, and \$5 more for his trouble. The \$5 I gave him of my own free will. I never heard the name of the clerk."

The system as to mercantile licenses seems at times to have been as bad as that which prevails as to the liquor dealers. Robert Morris, one of the board of mercantile appraisers, says that he does not suppose there is a retail liquor establishment in the city which is rated at the full amount of its sales. He further states that in one of the districts alone, last year, there were over seven hundred exemptions of mercantile dealers.

But we do not propose to comment further upon this subject, as the information upon which the commission base this report will be found annexed hereto.

We trust that your honorable bodies will regard the facts herein contained of sufficient importance, in their bearing upon the interests of the State to justify us in making reference to them at this time. Our reason for so doing is, as stated before, that this subject peculiarly affects the interests of the State. We do not regard it as within our province to make any suggestions as to the remedies to be applied.

As the appraisements and collections are to be made through the medium of the city officials, we may have some suggestions to propose when we make our final report. But we have believed it our duty to call the attention of the State authorities to the subject, so that, if they saw fit, some proper steps might be taken to prevent the recurrence of similar frauds and losses in the future.

Respectfully submitted, by order of the Commission.

B. B. STRANG, *Chairman.*

*Attest :*

LOUIS RICHARDS, *Clerk.*

PHILADELPHIA, *March 8, 1877.*

## TESTIMONY TAKEN JANUARY 31, 1877.

Robert C. Tittermary, *sworn*.

I am one of the appraisers of mercantile taxes in the city of Philadelphia. Have held the position for three years. The list required by the act of 1873, is made out annually, and is returned to the city treasurer in book form. We have what we call a street book, which is kept in pencil for our own guidance in making out subsequent lists. These books are not preserved. The street books are turned over to my clerk, who is employed in the city commissioners' office, and are kept in that office. Each appraiser has a street book, but the books are not all kept in the commissioners' office—only mine. None of the other appraisers have clerks. There is no clerk employed in the appraiser's office. We ascertain the number of taverns as follows: The city is divided into districts by the appraisers, and each appraiser has charge of a district. The district of Mr. Morris, who is the president of the board, is composed of the Sixth, Ninth, Tenth and Eleventh wards. The district of John M'Cullough, one of the appraisers, is composed of the Twelfth, Thirteenth, Fourteenth, Sixteenth, Seventeenth, Eighteenth and Twentieth wards. The district of R. C. Tittermary is composed of the Fifth, Seventh, Eighth and Fifteenth wards. The district of Ross Kemble is composed of the First, Second, Third, Fourth, Twenty-fourth, Twenty-sixth, Twenty-seventh and Thirtieth wards. The district of Francis Nagle is composed of the Nineteenth, Twenty-first, Twenty-second, Twenty-third and Thirty-first wards.

In ascertaining the number of taverns in my own district, I visit every business house in every street in that district. I have not my street book with me now. I fix the rate of tax by inquiring of the parties themselves the amount of business they do. I do not depend on their statement only, but use my own judgment. I do not require applicants to go to my office, but I go to their places of business. We have five classes of licenses. If I put parties in a class above the fifth, I swear them when they come to the commissioners' office. The appraisers hold an office in the city commissioner's office in the month of March, for the convenience of the dealers when they take out their licenses. They are sworn always at the commissioner's office. They are obliged to come there to make their application before they can obtain their license from the clerk of the court of quarter sessions. I administer the oath when I am there. The oath is administered by some one of the appraisers. There is no written statement made under oath. The statement is never in the form of an affidavit. No affidavit is filed with the commissioners. There is no record kept of the oath whatever, or of the statement of applicants as to the amount of liquor sold. We do not confine ourselves to the representations of the applicants under oath, but extend the inquiries farther in cases of doubt.

There was a number of cases of dealers whom I had rated higher than the fifth class, who came and made oath, and were then reduced to the fifth class. There are licenses granted in my district above the lowest or fifth class. I could not name them. The rates are sometimes altered after they leave my hands. The Continental hotel, which is in my district, was originally put in the second class, but was reduced to the fourth class, upon whose affidavit I do not know. There is nothing in our books to show. I think Lauber's is in the fourth class. There is not a house in Philadelphia rated above the fourth class, which class pays one hundred dollars license. There never was a house in Philadelphia rated above the fourth-class. I think Proskauer's was rated in the fourth class. I don't think there are any houses which pay a first class license, of \$700.

I do not suppose there is not a house in this city which does not sell more than four thousand dollars worth of liquors. I think there are some which sell fifty thousand. I have the power of investigating the sales, but they bring books to show the amount. They keep no book of sales, but the books which they exhibit contain their purchases. Their statements of annual sales are really the statements of their annual purchases. They average from the quantities purchased the number of glasses sold. The first year I went around I asked the dealers what they took in. Nine out of every ten replied that they did not take in enough to pay their rent. In my district—the Fifth, Seventh, Eighth and Fifteenth wards—the number of persons selling liquor last year, I think, was 1,075. This was the number my street-book footed up, and included all, licensed and unlicensed. I think my district was next to Mr. Morris', which was the largest. The applicants are rated on my regular list, in book form, before they are sworn. That book shows the original rate only—not the reduced rate. The city treasurer gets at the amount of the license by the certificate which the applicant brings from the clerk of the court. The applicant applies to the city commissioners, and they certify his application to the clerk of the court, with the class to which he belongs. Upon receiving that certificate the clerk of the court gives the applicant a blank bond to be executed, with two sureties. The bond is executed and filed in the clerk's office. The applicant then gets a certificate from the clerk, which he takes to the city treasurer, the certificate showing the class to which he belongs, and the amount he is to pay. He pays the license to the treasurer, and gets a receipt which he returns to the clerk of the court who issues the license. The books we return to the city treasurer are of no information to him to show the amounts, but only to show who are delinquents.

My attention was called last year to fraudulent licenses. The parties would come to the appraisers' and commissioners' office, and pay their fee, one dollar to the appraisers and three dollars to the commissioners,



and obtain the usual certificate. They did not go to any other office. The parties were imprisoned, but not tried. A printer named Moore printed the licenses.

I suppose there are some bogus licenses in existence. A policeman could tell by the seal whether a license was a forgery. I don't think the amount of taxes paid would be any greater if one-half went to the city; I don't think there is any more due for license in my district than has been paid. There have only been convictions in the Twenty-second ward for selling without license. Any one who is a citizen can get a license.

There are five appraisers; they are appointed jointly by the City Treasurer and State Treasurer. The appraisers get a fee for each assessment, which was formerly paid by the State—sixty-two and a half cents per name. The license is now to be paid by the city. At the large hotels the returns are generally made by the bartender. I examine the proprietor first, and he tells me he does not know anything about it, but that the bartender does.

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#### TESTIMONY TAKEN FEBRUARY 1, 1877.

Joseph R. Early, *sworn*:

I was acting mercantile appraiser last year in the city of Philadelphia; my district was the First, Second, Third, Fourth, Twenty-sixth and Thirtieth wards. I went round and made a register of dealers myself. The parties who receive the notices take them to the city commissioners. The fees of the appraisers are one dollar on every appraisement of liquor dealers, and sixty-two and a half cents on every mercantile appraisement. I do not know from what source the pay is drawn. I had no clerk. I do not know Mr. Joseph's clerk. Never saw his clerk.

If the mercantile dealers swear that they are not doing a business of one thousand dollars a year, they are exempt from license. Two instances came under my knowledge where the exemptions were forged. They were Market street parties, but smaller dealers. A Mr. Cassidy had one of these exemptions, to which Mr. Tittemary's name was forged. When we sent him a delinquent notice, he returned the exemption to us. We sued out and recovered the license. The appeals in Philadelphia are to the board of appraisers. [Books exhibited—appraisements of liquor dealers by wards.] These books are made out from what the appraisers call their "street books." I made a personal canvass of my district. I took every place where I found liquor was being actually sold. I found that it was entirely useless to interrogate the dealers as to the amount of their sales. I could not rely upon the truth of the answers. The street books are considered the private property of the appraisers. They are not a record.

Don't know that any of the parties returned by me failed to take out their licenses. I do not know whether any parties are doing business in Philadelphia on bogus licenses. I believe several parties were arrested some time ago and brought before court. I do not see that these books are of any use to the city treasurer. The board of appraisers reduce the classification of the liquor dealers. Think the board have an office at the office of the city commissioners. I never sat on the board of appraisers.

John S. Wetter, *sworn*.

I am one of the city commissioners; have been a commissioner for two years. I was employed in that office for five years before my election, and am familiar with the business. The commissioners have not been making tri-ennial assessments for some time—not since I have been in the office. They have the power to classify the mereantile appraisements but do not exercise it. They simply sanction the appraisements as made by the mercantile appraisers. The only precepts we ever issue to the assessors are for taking a septennial census. Don't know whether these books (appraisement of liquor dealers) are made out before or after the appeals.

After the classification and the appeal, which is the final classification, the applicant brings the certificate to the city commissioners, who furnish him with a form of application, which he takes to the clerk of the court of quarter sessions. The form states on its face that the commissioners have granted the application of the party named to sell liquor in quantities less than one quart, and sets forth the class he is in. There is a record of this classification kept in the commissioners' office, on the stub of a book. I obtain the classification from the certificate of the mereantile appraiser. These certificates are filed as we receive them but are not preserved. The certificates ought to correspond with the classifications returned to the city treasurer. When the classification is once fixed by the commissioners, there is no power lodged anywhere by which it can be changed. The applicant pays a fee of three dollars for the application. We see the applicants only once a year. The applicant gets a bond at the office of the clerk of quarter sessions, which he takes to the alderman residing in his ward, before whom it is executed. For executing the bond he pays a fee of one dollar to the alderman. He then takes it to the recorder of the city, by whom it is approved, and pays for this a fee of one dollar. He then files the bond with the clerk of the quarter sessions. He pays \$5 75 to the clerk when he receives the bond. When the bond is filed the clerk gives him a certificate, which recites the classification and the amount of license he is to pay to the city treasurer. When he obtains a receipt from the treasurer he pays another fee of \$1 25. After obtaining the receipt from the treasurer he takes it to the clerk of the quarter sessions, who issues the license.

The city commissioners issue the warrants for the pay of all the jurymen and witnesses in the different courts. The pay-rolls are made out by the clerks of the several courts and approved by the judges. We only pay witnesses in the criminal courts, and pay all the officers of all the courts except the judges. The commissioners have a general supervision over the assessors in making assessments for election purposes. The assessments for election purposes are made by a different set of assessors from those connected with the board of revision of taxes. One copy of the assessment of voters is returned to the city commissioners, and another copy deposited with the receiver of taxes. These assessments are made by district assessors, elected by the people. The city commissioners also pay all the election officers, furnish all the election blanks and pay all the election expenses. They grant the applications for tavern licenses and issue warrants for the payment of the expenses of the prisoners from Philadelphia in the Eastern Penitentiary; also to the managers of the House of Refuge and of the State Lunatic Asylum for the expenses of inmates from Philadelphia sent to those institutions by order of court.

They issue instructions to the registry assessors. The assessors return those registrations to us on the sixty-first day before the election. We then have seventy printed copies made of the lists for each division. We have no connection with the board of revision. Our list includes all taxpayers as well as voters. These assessments which we have are not made out by the same assessors as those who make out the assessments for taxable purposes. The latter are appointed by the board of revision. When we make out the printed list, we post ten copies in conspicuous places in each election division.

Q. [By Mr. Pallett.] Suppose you ascertain that an assessor has put false or fraudulent names on the registry list, what do you do?

A. We have no means of ascertaining what names are falsely put on the list. The political parties attend to that, and have the list revised by the court.

Q. Have you not supervision over these assessors?

A. Merely in instructing them as to their duties in the first place—we have no means of ascertaining whether they violate their duty afterwards.

Q. Then you have no power in yourselves to correct these lists.

A. Except by order of court.

Q. Don't you know that the practical result of this registry in Philadelphia has been to place upon these lists the names of a large number of persons not entitled to vote.

A. No, sir; I don't think so; I think that when the assessment is first made in June, the persons assessed actually reside in the districts in which



they are assessed. Changes are made in residence frequently before November, when the election is held.

Q. What, in your opinion, is the actual number of persons entitled to vote in the city of Philadelphia?

A. I think the last assessment, as revised by the court, represents a fair assessment.

Q. What, in your opinion, is the actual number of voters in the city of Philadelphia; does it exceed 130,000?

A. Yes, sir; I think there are more than 130,000 people in Philadelphia entitled to vote.

Q. How many more in your opinion?

A. I can't tell—I think the last assessment is a fair assessment. The clerk of Mr. Tittermary employed in our office is named George H. Schell.

#### TESTIMONY TAKEN FEBRUARY 2, 1877.

Adolph Proskauer, *sworn*.

I am a caterer; keep the Belmont Mansion and Mount Pleasant in the park; they are both restaurants and ice cream saloons; I sell wines and liquors at retail at both places; I paid last year fifty dollars for each of my two licenses—one hundred dollars for both; the business which I do at Belmont Mansion may amount to about three thousand dollars per annum; this does not include the sales of wine; including wines it would not exceed five thousand dollars; my business last year was almost destroyed by the Centennial; I keep no statement of my receipts except an ordinary ledger; I paid license in the fifth class; I was rated originally in the first class; I never paid any higher license than the fifth class; I never offered or paid anybody anything to have the class of my license reduced.

Q. Did you authorize your superintendent to pay anything to have your license reduced? Did you authorize the payment of fifty dollars for such reduction?

A. No, sir; I did not appeal from the assessment last year in person, but sent my book-keeper to the office of the city commissioners.

Q. What did you send your superintendent there for?

A. To procure my license.

Q. What did you tell your superintendent to do?

A. I told him to go down and get my license.

Q. Did he attend to the whole business?

A. Yes, sir.

Q. Did you give him any particular instructions?

A. Not that I remember; I don't believe I did.

Q. Did you tell him to get your license reduced?

A. I hardly remember whether I went there myself, or told him to go down for me; I had been placed in No. 1, and believe I told him to go down and have it reduced, and he paid fifty dollars for the license.

Q. Did he pay that on the same day you sent him?

A. I could not remember.

Q. Were you examined about your business?

A. I told the appraiser in the office what my business was; it was in the city commissioners' office.

Q. Whom did you ever talk to about your license last year?

A. I don't remember that I spoke a thing in person.

Q. Did anybody speak to you about it?

A. No, sir.

Q. Where was the fifty dollars paid?

A. That I don't know; I think it was paid to the city treasurer.

Q. Then do I understand you to say that you do not know how your assessment was changed from the first into the fifth class?

A. I only know, as I said before, that I sent my book-keeper to see that my assessment was changed from the first to the fifth class, and to state what my business was.

Q. Do you mean to say that no commissioner or appraiser ever asked you anything about the amount of your liquor sales?

A. I don't say so.

Q. Who spoke to you about it?

A. I really do not remember. I have a poor memory for names.

Q. Do you mean to say that somebody did speak to you about it?

A. I think that somebody did ask me about the amount of liquor I sold.

Q. Where were you asked?

A. I don't remember.

Q. Was it at the commissioners' office?

A. I believe so.

Q. Was it in the presence of your clerk?

A. I believe it was.

Q. Were you sworn?

A. I don't remember.

Q. Do you know Samuel Josepls?

A. Yes, sir.

Q. Is he the man you spoke to?

A. No, sir.

Q. Do you know Tony Laws?

A. I don't know.

Q. Do you know Robert C. Tittermary?

A. I think I do.

Q. Did he ask you anything about it?

A. Not that I know of.

Q. Do you know Ross Kemble?

A. I don't know him by name.

Q. Do you know Francis Nagle?

A. No, sir.

Q. Do you know John M'Cullough?

A. I don't remember him by name.

Q. From whom do you purchase your wines?

A. From A. Frohman, on Dock street.

Q. All of them?

A. Yes, sir.

Q. From whom do you purchase your other liquors?

A. The only liquors I don't get from Frohman I get from White & Haus, 222 North Second street.

Q. Where do you buy your malt liquors?

A. I don't keep malt liquors, excepting in bottles.

Q. Then I understand you to say, upon your oath, that during the last year, 1876, your sales of liquors at Belmont Mansion, including wines, did not exceed three thousand dollars?

A. Yes, sir.

Q. You say the same of your restaurant at Mt. Pleasant?

A. A great deal less—not three hundred dollars.

Q. The park commission have a room at your place at Belmont Mansion. Have you any recollection of speaking to a gentleman there to have your license reduced?

A. I don't remember.

Q. You never gave a gentleman \$50 to have it done, or authorized your clerk to do so?

A. No, sir. I felt hurt when they rated me at \$750. I felt good when they reduced me to \$50.

Samuel Hamilton, *sworn*.

I am a book-keeper. Am not in anybody's service at present. I do a little business for Mr. Proskauer, but am not now directly in his employ. I was in his employ last year up to the first of June. I was there off and on for nearly five years. I had principally to remain at the desk as cashier in the restaurant. Don't think there was any separate account kept of the wines and liquor sold. Couldn't say what the receipts for 1875 amounted to. I would be away in the winter. In the summer the receipts for the restaurant and for liquors would amount to \$——I really couldn't make an average. The receipts would average \$100 during May, June and July.



Don't know how Mr. Proskauer came to be rated in the first class. Don't know that he was rated last year in the first class; I paid his license for him last year; don't remember how much I paid; I paid in money; don't know how Mr. Proskauer got from the first into the fifth class; don't recollect that he ever sent me anywhere to get his license reduced from the first to the fifth class; never had any conversation with him about changing it, to my knowledge; don't think I ever heard him say anything to anybody about it; don't know that I did; all I know about it is that I went down and paid his license when he gave me the money to pay it.

I know Samuel Josephs and Toney Laws; none of them ever came there about reducing the license, to my knowledge; there was never anything said in my presence about reducing the license; I didn't make the arrangement about reducing the license; Mr. Proskauer attended to that; heard Mr. Proskauer say when he got his notice, that he would have to see the appraisers and get his license reduced; never spoke to a Mr. Smith about it that I recollect; don't know George Schell by name.

Anthony A. Laws, *sworn*.

I was one of the board of mercantile appraisers three years ago; I had the Nineteenth, Twenty-first, Twenty-second, Twenty-third, Twenty-fifth and Twenty-eighth wards—I think the Twenty-ninth also; I had no clerk; I had no assistant especially; I made the appraisement; I think Mr. John Boileau did the writing; don't know that Mr. John Hough served the notices; some of the exemptions in the Twenty-first ward I made, and some of them Mr. Morris made; I served one year only; I acted afterwards in the place of Mr. Josephs; the year I was in I drew my salary from the city treasurer; it was less than two thousand dollars; couldn't say what the office was worth; it took me in the neighborhood of three months to do the work; I used a horse and wagon.

Samuel M. Hewlings, *sworn*.

I am the proprietor of the American House, Philadelphia; I don't recollect to whom I paid my license last year; it was paid at the hotel; the usual time for paying license is in May or June; I have never taken out my license personally; there is no particular person whom I have employed for that purpose; the person whom I paid last year called upon me for the purpose of receiving the amount of the license; I think he was a stranger; don't think I would know him if I would see him again; I paid him \$150, as near as I can recollect; the man whom I paid came in with Mr. M<sup>r</sup>. Shane, who said it was the gentleman who collected the license; Mr. M<sup>r</sup>. Shane is my bar-tender, and superintendent of my restaurant; did not go to the treasurer's office, and did not send there; the person whom I paid gave me the license and frame.

Q. Were you ever interrogated by any appraiser in relation to the amount of business done at your bar?

A. Not that I recollect.

Q. Have you ever had occasion to appeal from the assessment placed upon you?

A. No, sir.

Q. Do you know anybody whose business it is to obtain these licenses?

A. I do not.

Q. Have you always paid your license in the same way—to a person whom you did not know?

A. I don't know any of the men to whom I paid.

Q. You are returned as having paid \$50, and you say you paid \$150?

A. I am sure I paid \$150.

Q. How did you get the license?

A. I don't know whether the man brought the license with him. I saw it there a day or two afterwards.

Q. Do you know why you are put in the fourth class?

A. No, sir.

Q. Did you ever have any conversation with any person on the subject of the classification?

A. Not that I recollect.

Q. Have you ever paid more than \$150?

A. I recollect that one year I paid \$800. It was in Mayor Conrad's time, when the license was paid according to the rental.

Q. Do you suppose your bar business is larger than Lauber's?

A. I have no reason to think so. I think there are other places in Philadelphia where as much liquor is sold as at my place.

Charles M'Shain, *sworn*.

I am superintendent of the bar and restaurant of the American hotel, in the Sixth ward. The license is taken out in the name of S. M. Hewling. I have been superintendent there between sixteen and seventeen years. I could not say what license was paid for 1876. I made the application but Mr. Hewling paid the license. I do not know what class the hotel was placed in. I never was before the appraiser. I suppose one of the appraisers called on Mr. Hewling. I paid at the quarter sessions office once or twice \$5 75 when getting out the license. I was asked once at the city commissioners' office as to our receipts. I replied that we averaged from \$10,000 to \$12,000 a year. Don't think the sales of 1876 were as much as the sales of 1875. The sales of 1874 were better than 1875. I think the license paid for 1875 was sixty odd dollars. Mr. Hewling paid the money and knows the amount accurately. I think our sales of last year

would not exceed \$12,000; think they exceeded \$10,000. Mr. Hewling keeps a book of receipts at the bar, which is separate from the other receipts.

Charles M'Shain, *re-called*.

I can't remember the name of the person to whom Mr. Hewling paid the license last year. He was a clerk in the city commissioners' office. The license is now always paid at the house, but in years gone by it was paid at the city treasurer's office. I didn't receive the money nor didn't see the money paid. I knew the man's face; had seen him in the city commissioners' office. He was tall, slender and had a black moustache; it wasn't Wetter: He might have been from 28 to 30, or 35. I suppose he was a messenger, or something like that. Don't know whether I have seen him since. I suppose I would know the man if I was to see him. He came there alone when he took the money. The frame was with the license. When I first went to the hotel I think the license was only \$50. Mr. Hewling himself paid Mr. Wetter, I think, in 1874 or 1875. Mr. Hewling told me it was \$150 that year.

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#### TESTIMONY TAKEN FEBRUARY 3, 1877.

Henry M. Myers, *sworn*.

I am a saloon keeper in the Sixth ward, Philadelphia, No. 40 South Sixth street; I have a family store in connection with the saloon; have taken out two licenses; the sales of liquor in the saloon will not exceed four thousand dollars per annum; the total sales in the store, including liquors, will not exceed twenty-five hundred dollars per annum; I am assessed in the fourth class, but have always paid license in the fifth; one of the mercantile appraisers reduced my license from the fourth to the fifth class; I do not know who he was; I paid my license at the city treasurer's office; I have been in the same district four years; I received a notice from the mercantile appraisers last year; was not called upon personally about the license; the reduction was made at the city commissioners' office; I was not sworn or examined in relation to the amount of my business.

Q. Did you appeal from the assessment?

A. I appealed from the fourth to the fifth class.

Q. Where and how did you appeal?

A. I simply stated to the gentleman that it was entirely a mistake, that I had never been in the fourth class before, and that my former rate had always been in the fifth class. That is all I said to him. This was said at the commissioners' office.

Q. To whom was this said ?

A. It was said to a young man behind the desk, whom I do not know and cannot describe.

Q. When you told him this, he changed you into the fifth class ?

A. Yes, sir.

Q. You were not put upon your oath, or examined in relation to your business ?

A. No, sir.

Q. The person was an entire stranger to you, and you to him ?

A. Yes, sir.

Peter S. Dooner, *sworn* :

I am a saloon and restaurant keeper at 731 Chestnut street, (known as Green's restaurant.) Have been there since the first day of May last. I was not in the business prior to that time. I could not tell the annual receipts of the business when I bought out. Mr. Green never kept any books. I bought him out before the expiration of his license, as I understood. Mr. Tracy and myself bought him out, but we have since dissolved partnership, and I now carry on the business in my own name.

Q. What did you pay for your license ?

A. I paid so much that I don't recollect what it was.

Q. State all the facts in regard to the payment of your license ?

A. A notice, in the name of Mr. Green, was left at my place of business. A Mr. Griffen went with me to the commissioners' office, at my request. I didn't know anybody there. I gave them the notice which I had received from Mr. Green, and told them I wanted the name changed to Tracy & Dooner. As near as I can recollect they gave me a paper, which I took to the clerk of the quarter sessions. I got another notice from the clerk ; paid something there ; don't recollect what it was. I then went to the office of the recorder, and the alderman of the ward. At both of those places I paid money. From the alderman's I went back to the clerk of the court, where they gave me the license in a frame. Don't remember what I paid for the license. Can't say whether I paid \$150. I paid for the license in the city treasurer's office. I employed nobody to assist me in this business. Mr. Griffen merely accompanied me at my request. I really do not know what class I was rated in. I never made any appeal from the original assessment.

I couldn't tell what my receipts are. During the last year they were considerable. They are not so great this year. I wouldn't like to swear as to the amount. I can show you the books. I think we would average forty dollars a day. I think the amount I paid at the city treasurer's office was over one hundred dollars.



Charles F. Lauber, *sworn* :

I am book-keeper for my uncle, Philip J. Lauber. He keeps a saloon and restaurant at 24 and 26 South Fifth street. I keep the book containing the accounts of sales of wines and liquors. I have been employed there nearly three years. Mr. Lauber attends to the taking out of his license. He makes the application. He does not employ any person to get out his license, to my knowledge. He pays his license, I think, at the office of the city treasurer. I don't remember the sum exactly he paid the last time, I think it is entered on the books. His receipts from the bar are over ten thousand dollars a year. They have been over that amount annually ever since I have been there.

Charles F. Lauber, *re-called* :

On examination of Mr. Lauber's cash book I find that the amount paid for license for the saloon on Fifth street for 1876 was \$205, and the amount paid for license for the Centennial restaurant, in the Centennial grounds, was \$350.

#### TESTIMONY TAKEN FEBRUARY 5, 1877.

John C. Poulson, *affirmed* :

I keep a restaurant at 813 Walnut street, in the Eighth ward. Have been in the business since 1847, and have carried it on in the place where I now am since 1864. For the last two years the process of getting my license has been, first a notice was served on me, giving the class in which my house was rated, a notice from the mercantile appraisers. This I have taken to the office of the city commissioners, as previously, where I apply for the license. We go to one desk, and there they take down our name and location, and charge a fee of three dollars, I think. We go over to another desk, get a slip of paper and pay a dollar and a half. I was only asked once in regard to the amount of my business, and that was several years ago, when a new commissioner came in. About two years ago, I think, I was sworn on that point. This was when the system was changed. The oath was taken in the appraiser's office. From the commissioners' office we go to the clerk of the quarter sessions and get a blank bond, for which we pay a fee. The fee used to be two dollars and three shillings, but for the last few years it has been five dollars and seventy-five cents. We go from there to the alderman of the ward, where we execute the bond and pay the alderman a fee of one dollar. From the alderman's we go to the recorder's office; he examines the bond and charges a fee of one dollar. From the recorder's office we go to the city treasurer's office and pay the license, for which a fee of one dollar and a quarter is charged. We then

return to the office of the clerk of quarter sessions and get the license. When we get the license we pay forty cents for the frame. We have to get a new frame every time. The receipt for the license paid to the treasurer is left with the clerk of the quarter sessions. The total fees, independent of the license, amount to about \$12 60.

The receipts from my business do not exceed ten thousand dollars a year. Last year they were about seven thousand dollars. I do not remember what I paid to the city treasurer for my last license. On examination I find I paid in 1875, \$51 25, and in 1876, \$51 25.

Daniel J. Donohue, *sworn* :

I have charge of the bar and liquor department at the Continental hotel in this city. I attend to the taking out of the license. I pay the license myself; drawing the money from the office. I paid the license for 1876 to a young man from the city commissioners' office; I don't know his name. He is a thin man, with a black moustache. I paid the license at the Continental, at our own office. Can't state exactly what I paid the last time. I paid the license for the Continental and Trans-Continental hotels. Don't recollect what I paid for the two. I paid in money. The young man brought the license book there when I paid. I made no appeal from the original classification. I can ascertain from my books how much I paid him. I am positive I didn't pay as much as \$700 for the license for the Continental.

Daniel J. Donohue, *re-called* :

After examining my books, I find I paid \$350 for the Continental license last year, and \$400 for the year before. These amounts included costs, fees and everything. I would know the man to whom I paid the licenses if I should see him. I never made an affidavit to have the classification reduced, nor any appeal from the classification. Nobody else had any authority to make such an appeal. Didn't know that we were rated in the first class

George W. Mullen, *sworn* :

I was sole proprietor last year of the St. Cloud hotel, in the Tenth ward. I have connected two gentlemen with me this year. A young man by the name of Karns, who has charge of my wine room, attended to the taking out of my license last year. I do not know where he paid for the license. We were in the fifth class the last year—that is the present year. The sales at our bar run to about eleven dollars a day. The bar is simply kept as a matter of accommodation, not of profit. I did not make any appeal last year. We had complained frequently in regard to the classification. I paid for my license last year, \$88 25. It all amounted to this: city treasurer, \$51 50; recorder, \$1; city commissioner, \$29; clerk of quarter sessions, \$5 75; alderman, \$1.

Charles Petre, *sworn* :

I keep a restaurant at the corner of Broad and Walnut streets, Eighth ward. The bar is rated in the fifth class. Don't recollect that I made any appeal from the classification of last year.

Q. You are marked or returned in the first class; how were you reduced to the fifth class?

A. My bar room does a very small business; I suppose I stated that it was not right to rate me in a higher class than I ought to be in; the receipts at my bar are about five, six or seven thousand dollars a year; seven thousand is the utmost.

Q. When you were reduced from the first to the fifth class what did you do?

A. A friend of mine had it done for me—Mr. Francis, who is in the same business as myself; he keeps in Twelfth below Walnut; I told Mr. Francis it was not right to rate me in the first class; I paid \$50 and something over for my license; I never have paid more than a fifth class license; Mr. Francis got the change made for me from the first to the fifth class; I paid \$50 license for the restaurant and \$25 for the cigar shop; the license in all cost me about \$85.

Charles Petre, *re-called*.

On examining my books, I find I paid May 25, 1876, for taxes, \$58 50; May 30, for license, \$54 50; June 3, State license, \$31 50; I think part of the latter was for cigar shop license.

Nunzio Finelli, *sworn*.

My business is keeping restaurant; I carry on two restaurants, one at 1345 Chestnut street, and the other at 43 South Tenth street; I took out licenses for both places last year; I went first to the city commissioners' office—that is I sent a man there; I went to the city treasurer's office myself and paid the tax; I think I paid \$50 for 1345 Chestnut street; I could not say whether my receipts there are over ten thousand dollars a year; don't keep any separate account of the liquors sold; in the summer we have very little to do; on Tenth street we only sell oysters; at the Chestnut street place we have the restaurant; the sales from liquors, cigars and oysters at the latter establishment will go above ten thousand dollars; can't tell what I take in at the South Tenth street place; my business there is not as good as it used to be; I was never sworn at the appraisers' office about the amount of my business; my man made the application last year.

Nunzio Finelli, *re-called*.

I paid in 1876, \$50 license for the Chestnut street restaurant, and \$50 license for the saloon on Tenth street; I think I paid this myself at the treasurer's office.



Jeremiah M'Kibbin, *sworn*.

I am one of the proprietors of the Girard House, in the Ninth ward, and have been for over a year and a half; I did not take out the license myself last year; the amount paid was \$150; if an appeal was made last year, it was made by the clerk; I am not conversant with the circumstances.

J. H. Dennison, *sworn*.

I am clerk at the Girard House; I attended to the taking out of the license last year; I don't remember in what class the Girard House was rated; the slip of paper was given up when we paid; we appealed from the classification at the city commissioners' office on Fifth street; I went to one of the commissioners whom I knew, and he referred me to a slender young man behind the counter who acted as clerk; the latter said he would see to it; I filed no affidavit; was not examined by any one of the appraisers there; don't know the name of the clerk; we were reduced in class; can't tell the class to which we were reduced, but only the price paid, which was \$150; we had to pay the usual fees in addition—probably \$12 or \$13; the license was paid for at the hotel, to one of the commissioners I suppose—I think Mr. Tittermary—who brought the license along with him; I didn't know what the amount of the license was to be until Mr. Tittermary came there to close the matter.

I know the receipts at the Girard House bar have been down as low as \$30 per day; I presume that the receipts have been considerably over \$10,000 the last year.

I think I asked the question at the commissioners' office whether I should come down and pay the license there, and was informed that it would be brought up; the only conversation I had with anybody on the subject of reducing the license, I have detailed; I was not sworn in regard to the amount of the sales.

Peter Lane, Jr., *sworn*.

I was license clerk for 1876, in the office of the city treasurer. [Assessment books of liquor licenses shown witness.] These books represent the original assessments of retail liquor dealers for the year 1876, made by the mercantile appraisers.

Q. Are there any reports made to the city treasurer by the mercantile appraisers of changes in the classification contained in these books on appeal by the parties applying for license?

A. No, sir.

Q. Then of what use are these books to the city treasurer?

A. None, virtually.

Q. The classification contained in these books is then no guide to the city treasurer in collecting the tax?

A. I might say that the only use of these books is to refer to the delinquents who have not paid on the first of June. We take the pay for the licenses on the certificate furnished by the clerk of quarter sessions.

Q. Has anybody else any authority to receive the license except the treasurer?

A. No, sir.

Q. It is not given to anybody else to take round and collect?

A. No, sir.

Q. Of the licenses issued for the year commencing in June last, how many were for the first class?

A. None.

Q. How many for the second class?

A. None.

Q. How many for the third class?

A. None.

Q. How many for the fourth class?

A. Two—S. M. Hewling, American hotel, and Frank Miller, Guy's hotel, both in the Sixth ward.

Q. Then all the licenses issued, with the exception of these two, were for the fifth, or lowest class?

A. Yes, sir.

The collections have been made closer this year than ever before, because I furnished, unsolicited, to the district attorney, a list of persons who had taken out no licenses but were in the fifth class. I don't think there can be many places in this city where liquor is sold without license. The judges keep the constables closely up to their duty. The money paid for licenses at the hotels, in the instances given, was not authorized. The constables in some cases collect the money before the license is issued. When a license is paid in our office our fee is \$1 25. Nobody could get a license from our office without first paying for it. Our stub states for whom the money is paid but not who pays it.

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#### TESTIMONY TAKEN FEBRUARY 6, 1877.

Charles Kleckner, *sworn*.

My business is that of hotel keeping. My place is 115 South Eighth street. Our firm is Kleckner & Bro. We rent the house. Henry Harms is the owner of the real estate. We pay \$3,500 rent a year. Our business is more of a restaurant business. The sale of liquor from the bar will not amount to over ten or twelve dollars a day. We have not averaged that the last winter. For the past year the sales of liquor have not been over

\$3,000—not enough to pay the rent. I was assessed in the third class last year. I paid fifty dollars license. The assessor's notice left with me rated me in the third class.

Q. How did you get reduced from the third to the fifth class?

A. I went to the office of the appraisers in the same building with the commissioners, and told the appraisers' clerk that I was assessed too high. I do not know the name of the clerk. Mr. Tittermary was in the adjoining room. The clerk asked me some questions in regard to the amount of my sales, and went out and spoke to Mr. Tittermary. He returned and said he would have to swear me. He swore me, and then put the question to me in regard to my sales of liquor. He then put me down in the fifth class. I paid one dollar to the appraisers' clerk and three dollars to the commissioners on that occasion. I attended to getting the license myself. I went from there to the clerk of the quarter sessions, and paid him \$5 75; thence to the alderman's to sign the bond, paid him one dollar; then went to the recorder's, and then back to the clerk of quarter sessions and got the license. Paid twenty-five cents for the frame. I never paid a license above the fifth class.

Seth Finn, *sworn*.

I have been a clerk at Guy's hotel since April 24, 1872. I never took out any of the licenses for the hotel personally. Mr. Miller took them out. Mr. Miller is dead. I know nothing about the license. I am not acquainted with the receipts at the bar.

J. W. Price, *sworn*.

I am a restaurant keeper. I took out my license last year. I got the paper out of the commissioners' office, went thence to the alderman, the recorder and clerk of quarter sessions. I have two establishments, and paid \$100 license for the two. I think they cost me about sixty or sixty-five dollars apiece. My principal business is from the restaurant. I think my bar will average from eight to ten dollars a day at each place.

Robert S. Garrison, *sworn*.

I am chief clerk in the office of the clerk of quarter sessions of Philadelphia, and have been for seven years past. ((Paper exhibited to witness.)) This paper is a certificate which goes to the city treasurer's office before the receipt is issued to the applicant. I give him this after he files his bond. We very frequently issue these certificates, not to the applicant for license but to some person acting for him. The constables sometimes make ten, fifteen or twenty applications at once, and we give the certificates to them. Don't recollect of their being issued to any of the clerks of the commissioners' office, or to any of the mercantile appraisers. Anybody who produces the bond may have the certificate whether he is the

applicant or not. I know George H. Sehell. I think he is attached to the mereantile appraisers' office. Have no recollection of ever seeing him in the quarter sessions office. We have nothing to do with the elassification. A great many come and pay the \$5 75 to the elerk of the court and never take out their lieense.

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### TESTIMONY TAKEN FEBRUARY 7, 1877.

John A. Morton, *sworn*.

My business is keeping a hotel at No. 1 Arch street. Have been connected with the house for the last ten years. Have kept the house myself since the 9th of May, last. The application for the lieense was first made in the name of Mr. Loeke, who is now deeceased. I attended personally to the taking out of the lieense. I think the lieense, with expenses, cost me \$63 75. A reduction was made to the fifth elass from a higher elass. I made application to the eity commissioners to have it reduced, and stated the ease to them. Was not sworn. I spoke to some one of the board of appraisers whom I did not know. I am not positive whether the elassification was reduced at once, or whether I was told to come again. Am quite sure I was not sworn. My bar receipts this winter have run down to five dollars a day. Last summer they went up to fifty dollars a day. They would not average twenty-five dollars a day all the year round. I should think they would average twelve dollars a day—not over that—for liquor alone. I paid the lieense at the eity treasurer's.

Charles Joly, *affirmed*.

I keep a saloon and carry on the business of bottling malt liquors. My saloon is at No. 9 South Seventh street. I took in last month at my bar about \$900. I think my business last year amounted to about \$16,000. Before that it amounted to about \$12,000. For the past ten years, with the exeception of year before last, I have taken out the lieense personally. The execeptional year I speak of the eonstable in my ward had the lieense reduced. I gave him a few eigans and a couple of dollars for doing so, but he could not have paid anything for getting it reduced. I should judge that there are very few houses in Philadelphia which do not sell more than \$4,000 worth of liquor a year.

John Beam, *sworn*.

I keep a sample room at 38 South Sixth street. It is a saloon. Have been there about three years. I paid last year about \$63 or \$64 for the lieense. I made the application personally, and got a friend to take out the lieense. I do not thing I took in much more \$5,000 last year. I pay \$900 rent. Don't think my busines is worth \$6,000 a year.



Christian Burd, *sworn*.

I keep a billiard saloon and bar room at No. 605 Arch street, Sixth ward ; I paid \$50 license for the bar last year ; I paid it personally to the city treasurer ; I made application last year to have my license reduced ; my license was assessed at \$100, and I got it reduced to \$50 ; I got a friend of mine, Mr. Smith, to get it reduced for me ; I made no personal application ; I did go to the office of the commissioners, but they were not in, and Mr. Smith said he would attend to it for me ; I have been in the business at the present location going on twelve years ; the highest license I ever paid was \$50 ; I have merely made my living in the business in the last few years ; my receipts at the bar vary from \$5 up to \$25 a day ; they average, I should judge, \$6,000 a year ; I pay \$1,600 rent ; the Mr. Smith who got my license reduced stated my case to Mr. Tittermary, one of the commissioners, whom he knew ; Mr. Smith kept a saloon in the basement of the same building I occupy.

John Hohsnadle, *sworn*.

I keep a lager beer garden and restaurant in the Fifteenth ward ; have been there nearly eighteen years ; I paid \$50 for my last license, and some expenses, which made it perhaps \$60 ; I paid it at the city treasurer's office ; my sales will not reach \$8,000 a year ; I pay \$2,000 a year rent ; I may take in \$7,000 a year ; the business was good some years ago, but of late it has fallen off a good deal ; in order to get my license reduced from the first class last year, I went to the city commissioners' office ; saw a gentleman there whom I did not know ; I was not sworn or examined, but I stated that the way I was fixed it was impossible for me to pay a higher license ; I did not get the license that day, but my brother got it the next day ; it cost me some \$61 or \$62 ; I did not pay anything to have it reduced ; can't say whether it was Joe Evans who had it reduced for me.

Christian Gerna, *sworn*.

I paid fifty dollars license last year ; I keep a lager beer saloon in the Fifteenth ward ; I was never rated in the second class but once, and that was last year ; a friend of mine, Morris Dahlman, who knew as much about my business as I did myself, had the reduction made for me ; I was sick at the time ; my friend did not charge me anything for the service ; the constable of the ward took out the license for me ; I always pay the constable one dollar—never pay more ; I own my property ; my receipts would not amount to \$4,000 a year.

## TESTIMONY TAKEN FEBRUARY 9, 1877.

J. E. Kingsley, *affirmed*.

Have been the proprietor of the Continental Hotel, Eighth ward, since 1863; can't say what class I was put in; the last year we paid \$50 for license; the year before I think we paid \$400; the securing of the license was always under the charge of the superintendent of the wine department, Mr. Donohue; I never appeared personally before the commissioners in regard to the license; I don't remember having made any oath or affirmation in relation to my sales; I presume that I have signed any papers that were necessary to procure my license. (License bond No. 2705, dated May 13, 1876, purporting to have been signed by J. E. Kingsley & Co., and by Geo. H. Schell and John Gormley as sureties, shown witness.) The signature of this bond is not my signature; it is not my handwriting, nor do I think it is the signature of either one of the firm of J. E. Kingsley & Co.; the persons composing the firm are myself, my son, E. F. Kingsley and Hubert S. Brown; that was the firm on the 13th of May, 1876; have seen the other members of the firm write their names frequently; am acquainted with their handwriting; to the best of my belief the signature of J. E. Kingsley & Co. to this bond was written by neither member of my firm; I am not acquainted with George H. Schell nor with John Gormley, and never asked any persons of those names to sign this bond; never saw this bond before to my knowledge; can't tell the annual receipts at our bar, and couldn't approximate.

Henry C. MacErlain, *sworn*.

I am a liquor dealer. Have an establishment at Fourth and Dauphin streets, Nineteenth ward, and another at the south-west corner of Cedar and Norris streets, Eighteenth ward. I live at Fourth and Dauphin. Both are retail liquor stores; the one at Fourth at Dauphin is wholesale, also. I paid \$50 for license at each store last year, exclusive of expenses. By expenses I mean fees paid to various officers.

Q. State to whom you paid money, in detail.

A. I first went to the city commissioners, and paid them \$3 for what is called a permit; then I went into another room, either before or after I went into the room of the commissioners, where I paid a dollar to the appraisers. I then went to the office of the clerk of the court of quarter sessions and paid \$5 75 to him—then to the alderman of my ward and paid him one dollar. The clerk of quarter sessions sent me there. I then went to the recorder on Chestnut street, and paid him one dollar. Then went to the city treasurer's office and paid my license—\$50 for each of my two establishments. The fees I have mentioned as being paid to the seve-

ral officers I have named, were paid for each license. I do not know that I was ever rated at more than \$50. I never gave anything to have my license reduced. For my wholesale liquor store, at Fourth and Dauphin, I pay a wholesale mercantile appraisalment tax. I was rated originally for that establishment \$25 by the mercantile appraiser. That is not the amount I paid. I took the ground that I never should have been rated to pay that amount. I made complaint to that effect to the person from whom I got a notice, to pay the license, or I would be sold out. The man said that according to my statement I ought not to have been appraised at all. I then said, I don't think you should insist on this appraisalment. He said there was many a man assessed who ought not to be assessed at all. I said, I guess there are some expenses on this thing. He said four dollars and some cents—very nearly five dollars. I then gave him a five dollar bill and he went off. I never saw any of the appraisers, and don't know any of them. When I gave him the money I believe he wrote exempt on a piece of paper and gave it to me. It was a printed paper. In substance the same thing passed between this individual and myself for several years previous to last year. Don't know the name of the individual who gave me this paper. It wasn't the person who is in the other room. These conversations always occurred at the private residence or store of the person who sent me the notice. I don't know the name, but think I could find the place. Last year I had to pay license—paid about \$40, or upwards. I tried to get exempted then, but they wouldn't let me off. I used every trick I was master of to get off. I know they let off others—at least that is my opinion. I was exempted for six years by about the same process. I got plenty of others exempted also. I always paid five dollars in each case, and brought the papers home to them. I think I got two or three persons exempted two or three times. Until last year I had hardly any trouble to get exempted myself. Can't estimate either my retail or wholesale sales. Know that I am making money enough and work all the time for it. Never was asked, either by the city commissioners or the mercantile appraisers, to make any oath or affirmation on the subject. My recollection on that point is not clear. I have no distinct recollection of making any oath or affirmation in regard to the amount of my sales. I keep books at both establishments. They show pretty nearly the amount of my sales. They are not accurate. I rely more upon my head. Don't think my retail sales at either of my establishments amount to \$5,000 a year. I wouldn't like to swear that they don't, but am pretty well convinced that they don't. I do the largest retail trade at Fourth and Dauphin streets, and the previous answer was as to that place. I have not been at Cedar and Norris streets a whole year.



Robert Morris, *sworn*.

I am one of the mercantile appraisers of the city of Philadelphia, and have been for three years. My district embraces the Sixth, Ninth, Tenth and Eleventh wards. Each mercantile appraiser attends to the appraisements in his own district exclusively. During the month of May the appraisers sit as a board of appeals. It has been the practice of some of the appraisers to hear appeals and grant exemptions individually. In the beginning of January last, a new rule was indorsed on the commissions by the State Treasurer, at my suggestion, forbidding any appraiser to grant exemptions or reductions outside of the office, under penalty of forfeiture of his commission. The present appraisers have accepted their offices subject to these rules. They have been in operation since January last, but how far they have been observed I cannot say. The assessments are now being made, but the day of appeal has not arrived. This rule was suggested by me in consequence of the abuses which had crept into the practice of the appraisers. I mean reducing men after they had been classified, and exempting them contrary to law. I have no reason to think that these abuses were carried to any great extent. A large number of exemptions were made, but a large number of assessments were made which should not have been made. The evil existed to such an extent as to suggest the remedy I have spoken of. I could not be aware of the extent to which it existed in other districts than my own, and could not be aware of it even in my own. The treasurer's books would show the number of exemptions, and the number and amount of reductions. I think the cases are very rare in which persons are not returned at all. Some fifteen or twenty persons from the city annually come to the city treasurer and pay their license voluntarily, who have been omitted from the list. I do not know of any case where persons have been exempted on payment of a fee. Have heard on the street of its having been done by a man who was an appraiser last year, but have no legal evidence of the matter. The appraisers do not keep clerks. We pay a young man, who is a clerk in the office of the city commissioners, Mr. Schell, seventy-five dollars a month to assist in making a record of the applicants, &c., for about two months. After I make the assessments and hand the book over to the city treasurer I have nothing at all to do with the matter. It is his business to collect the licenses. I make every appraisal personally. Usually know from observation the amount of business parties do. I seldom interview the hotel proprietors, as in nine cases out of ten the barkeeper is the person who knows about the sales. I don't think I saw Mr. Lauber personally. Asked his barkeeper how much money he took in over the bar every day. I do not examine the parties under oath. Don't think I examined Lauber's barkeeper since 1873. Don't think I examined the barkeeper of the Girard, American or

Penistan's last year. Simply assessed them at what they were assessed the previous year. I suppose Hewlings, of the American, sells ten thousand dollars worth of liquor a year. We never put any of the retail liquor dealers up to the full amount. It is only within the past few years that the mercantile appraisers have charge of the assessment of taxes on that class of persons. Before that the city commissioners attended to the matter, and they rated them all at the same amount—fifty dollars, and this was urged by the dealers as a reason for keeping the rate down to that standard. I don't suppose there is a retail liquor establishment in the city which is rated at the full amount of its sales. A very large number of them, whom we have reason to suppose, do a business of over \$4,000 a year, come to the office and make oath that their sales do not amount to that much. When reductions and exemptions have been made by the appraisers individually, it has been done entirely without the knowledge of the others. The city commissioners were in the habit of reducing appraisements in the liquor business. There is no authority for exemptions from taxes in the retail liquor business. I have heard of exemptions being made. I do not know that Mr. Cassidy, a dry goods merchant, near Third and Market streets, was exempted last year. He was not exempted by me. I heard of one or two cases where persons came into my district and exempted persons last year. In consequence of hearing of this, I changed the form of the printed notice to dealers, and stated that if any case of that kind occurred again, I would take some public action in regard to the matter. In one of the districts alone last year there were over seven hundred exemptions of mercantile dealers.

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#### TESTIMONY TAKEN FEBRUARY 12, 1877.

Charles Hardt, *sworn*.

I am in the wine and liquor business, in the Sixth ward, at No. 439 Chestnut street. I cannot state the amount of my sales of liquors annually. I do both a wholesale and a retail business. I should say the receipts at my bar might be about \$12,000 a year. I cannot say what license I paid last year. I think our head bar-keeper took out the license. I did not attend to it personally. I have two other saloons, at 137 South Third street, in the Sixth ward, and at Ninth and Sansom streets, in the Eighth ward. My receipts at the Ninth and Sansom streets saloon may be two or three thousand dollars a year. I know they are less than four thousand dollars. At the saloon in Third street the receipts may be three thousand dollars. To the best of my recollection the notice served on me at 439 Chestnut street rated me in the fourth class. The Ninth and Sansom street place I think

was also in the fourth class, and the Third street place in the fifth class. I cannot remember what class of license I paid at 439 Chestnut street. The notice was left at my place, but the license was not brought to me. Year before last I think I spoke to the constable of the ward. I think I said I ought to have my classification reduced. I think he got it reduced. Last year I had no conversation with anybody about it. I gave the constable no money, but treated him to a bottle of brandy. The highest license I ever paid at 439 Chestnut street was \$100. I was never waited upon by any of the appraisers. My impression is that the first year I paid \$150, and the next succeeding years \$100 each. I have no recollection of ever signing a bond or making an oath or affirmation as to the amount of my sales.

John M'Glinn, *sworn*.

I am a liquor dealer. My place of business is at the south-west corner of Eleventh and Brown streets. Our firm is composed of myself and John M'Cann. We pay a retail license, but our principal business is wholesale. We have a bar there. The sales at our bar might average from sixty to seventy dollars a week. I can safely say that our receipts are under \$4,000 a year. I took out my own license. I paid it at the city treasurer's office. I paid \$51 50 there. I have never paid any higher license than that for our retail business. I pay a separate license for the wholesale business. I was never exempted from payment of license. Have carried on business three years. Never made any application or employed any one to have our license reduced. Am sure my partner has not. Don't know of any parties who have been exempted.

Samuel Josephs, *sworn*.

I was one of the appraisers of mercantile taxes last year. Held that position for two years.

Q. Have you any knowledge of the certified lists of "hotel, tavern, inn and saloon keepers who sell liquors," with the "statement of the amount of annual sales made by each," which the appraisers are required by law to make out?

A. Yes, sir.

Q. Where are those lists?

A. In the treasurer's office.

Q. Are these the lists you speak of? [List of liquor dealers shown witness.]

A. These are all the lists I know of. We call these our blotters or assessment books. They are not certified lists. We were never asked to certify the lists to the treasurer's office. These lists do not contain the amount of the sales.



Q. From what books are these lists made up?

A. From what we call our street books. These street books are not records. We have them for our private use.

Q. How are appeals conducted?

A. By parties appearing in person before a majority of the appraisers, and taking an oath as to the amount of their sales.

Q. Is there any other way by which a person can have his classification legally changed than by that?

A. That is the only way it can be legally done.

Q. Do you know of its having been illegally done?

A. I have exempted persons in my district who made the necessary statement as to the amount of their sales, but it had to be afterwards submitted to the board for their endorsement.

Q. Those exemptions were made without the parties appearing before the board?

A. In some cases; yes, sir.

Q. What wards were in your district?

A. The Twenty-ninth, Twenty-fifth, Twenty-first, Twenty-second, Nineteenth, Thirty-first and Twenty-third wards. In my district the classifications were neither raised nor lowered. They were all in the fifth class.

Q. Were there many applications for exemption in the mercantile class?

A. There were a great many.

Q. On what ground were such exemptions applied for?

A. Where the business done was under one thousand dollars, and in many cases widows who did a business under two thousand dollars.

Q. Were exemptions made out of the proper district?

A. They were, but it was not authorized by law.

Q. These parties applying for exemption were not required to appear before the board?

A. As a general thing they were, but they sometimes succeeded in getting exemptions by seeing the appraisers individually.

Q. Was there any record kept of exemptions and reductions?

A. Yes.

Q. Where is that record?

A. It ought to be in the treasurer's office.

Q. Is the record made out at the time of the application?

A. Yes, sir.

Q. Does the board keep minutes of its proceedings?

A. I don't know that they ever kept minutes.

Q. The evidence upon which the exemptions or reductions are made are not preserved at all?

A. No, sir.



Q. Independent of these lists, deposited with the city treasurer, there is also deposited with him the annual record of exemptions and reductions?

A. In the way I speak of. If a person is exempted entirely the fact is noted on the back of the notice, and left with the chairman of the board; and if a reduction is made, a separate memorandum is made and handed to the chairman of the board. There are no minutes and no record kept of exemptions and reductions, except what I have spoken of. The memoranda or vouchers are transferred by the chairman of the board to the city treasurer.

Q. There are a little over five thousand licenses granted to retail liquor dealers in this city. How many of them do you suppose sell less than four thousand dollars worth annually? I am asking your own opinion and your best judgment?

A. My opinion would be that there are at least two-thirds of the liquor dealers, or one-half at least, who sell more than four thousand dollars worth a year.

Q. Can you give me any idea of the number of such establishments in Philadelphia which sell over ten thousand dollars worth of liquor a year?

A. I should think at least one-fifth of them.

Q. With your experience in this business, do you think the system of granting licenses to retail liquor dealers is as good as it could be made, or can you suggest improvements?

A. I think the system is very imperfect. The greatest evil is the existence of a large number of places where the worst sort of liquor is sold by the half pint, many of which pay no license. Grocery stores which sell liquor are also nuisances.

Q. Was there anybody authorized to make exemptions outside of the board?

A. No sir.

Q. Do you know that bonds are filed which have not the original signatures to them?

A. There may be such instances.

Q. Was Nicholas English a member of the board?

A. He was for a year at least, if not eighteen months.

Q. Are hotel keepers ever sworn in regard to the amount of their sales?

A. They make oath when they appeal, but no written affidavit is made.

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#### TESTIMONY TAKEN FEBRUARY 14, 1877.

Matthew Pester, *sworn*.

I am an auctioneer at Manayunk; I paid mercantile taxes in 1876; I heard several parties say they had got exempted from payment of license;

parties made application to my son, who is in the same business as myself, offering to procure exemptions for the sum of five dollars; Mr. John Hough, dry goods dealer, Main street, Manayunk, is the party who called on my son; Hough procured the exemption of Mr. William Smith, tailor, and Dr. Keely, druggist; I saw their receipts; they showed them to me; in the first place my son gave Mr. Hough five dollars to get a license; Mr. Hough said that was all the license called for; instead of a license, he brought back to my son an exemption. (Paper exhibited by witness, being notification to Oram Pester, dated March, 1876, from mercantile appraisers, indorsed, "exempt, S. Josephs.") This is the paper; in the month of September following, considerable noise was made about the matter, as all the parties who had received the exemption papers got notifications served on them by a young man named Pinkerton, that they must come to the city treasurer and pay their licenses; I advised my son to go down to Mr. Pinkerton's office and pay his license; at his request I went down to Pinkerton's office, 749 South Second street, and paid his license for him; this is the receipt. (Receipt R. D. Pinkerton, dated September 4, 1876, for \$9 85.) After I paid the license, Mr. Hough asked me if I had ever paid it, and I said yes; he asked me how much I paid, and I said \$9 85, including costs; then he brought another receipt back (receipt produced) dated August 18, 1876, signed J. K. Early for collector, for \$8 13, and handed it to me, saying that if I would take this to Pinkerton he would give me the money back; I never went to Pinkerton.

James W. Packer, *sworn*.

I reside at 1225 Girard avenue; keep a hardware store at that place; I was treasurer last year of the hotel Aubry at Thirty-third and Walnut streets, in the Twenty-seventh ward; my son was the cashier. When I was about to pay the license, he gave me an envelope with the name of the city commissioners' office printed on it. I asked where the bill which had been inclosed in the envelope was. Mr. Stover, our superintendent, replied that it had been lost. I went to the city commissioners' office to pay the license for the hotel, and was directed by a person doing business there to go in to a clerk in the back office. I asked the clerk about the license, and he told me it would be \$275. I handed him a check, and he filled it up for that amount, payable to "cash," and threw it in his drawer, and said it was all right. I said that that might be right for him, but it wasn't right for me; that it was not my way of doing business. He said he couldn't give me any receipt for the money, and went into the front office and had a consultation with the parties there. He returned and handed me my check back, and said I would have to go up to the Continental hotel with him. On the road there, he informed me that the head barkeeper there, Mr. Donohue, had taken our license out, and that the

money belonged to him. We didn't find Donohue in, and I told the clerk I would stop in in a few days and settle the matter. At about three o'clock the same afternoon I went to the Aubry hotel, and found the clerk waiting there for me. He told me that he could now give me a receipt. I told him I was not ready to settle it now, but that I would stop down and settle it in a few days. I sent to the city treasurer's office and found that some parties had already taken out the license for the hotel, for which they had paid \$61 25, including expenses. I then had a resolution passed in our board forbidding anybody to pay the license, and a copy of the resolution was sent down to the clerks in the hotel. The clerk from the city commissioners' office came over to the hotel the next day for the money for the license. The hotel clerks showed him this resolution, and he then took down the license which hung in the bar, and took it away with him. This license had been delivered before I went to the city commissioners' office the first time to pay. The next day our president and myself, fearing some trouble, went to the city treasurer's office, saw the stub where the license had been taken out, and were assured that if proceedings were commenced the stub would be produced in evidence. We then went to see Mr. Donohue at the Continental hotel, and he told me that the \$275 belonged to Mr. Tittermary; that he had paid the license. I asked him to explain why Mr. Tittermary claimed \$275 when he had only paid \$61 25. He told me he thought we were getting off very cheap; that the Continental hotel paid \$500 a year license, and the other Centennial hotels had all paid more than we had, and that it ought not to make any difference to us whether we paid it to the city or to Mr. Tittermary. I told him he had tackled the wrong man; that I was a property owner and a tax-payer, and that if this money was paid anywhere at all, it would have to be paid into the city treasury. I told Donohue that I would give him till the next day to send the license back to the hotel; that I would pay \$61 25, and no more. I stated also that if the license didn't come in that time I would expose the whole matter and have the clerk arrested. The clerk came over that afternoon with the license, and got his money—\$61 25 for the license and \$5 more for his trouble. The \$5 I gave of my own free will. I never heard the name of the clerk. The license was taken out in the name of James Stover.

Edward Stathem, *sworn*.

I am a clerk for Charles Hardt, who keeps a restaurant and liquor saloon at Penistan's old place, 439 Chestnut street. I have been there a little over a year. The highest I have known taken in daily for the sales was \$180, and I think the average would be from \$30 to \$40. I did not attend to the taking out of the license.



Samuel A. Cassidy, *sworn*.

I am in the wholesale and retail dry goods business at 128 North Ninth street. I carried on a wholesale dry goods business at Third and Market streets last year. Mr. John Hough of Manayunk, a former customer of mine, came to me and said, if any of my friends wanted to be relieved of the payment of mercantile tax, he had a friend among the officers and could get it done for them. He stated that it was an illegal tax. I said I wanted to pay my own tax, unless it was illegal. I paid my tax—the amount I do not remember. He got the names of a number of dealers. By his direction I went to several parties and got their notices, which I gave to him. He took them away and brought them back with the word “exempt” marked on the back of them, with a signature which I do not remember. Before he took the notices he said it would cost them \$5 apiece. When he brought them back to me, I paid him \$5 apiece for them, and I think he received that sum from one or two parties. The remainder I was not reimbursed for, and I am out some \$40 or \$50, I think, on that account. One of the parties, P. O’Connell, from whom Hough got \$5 for exemption, had to pay the amount of his license afterwards to the city treasurer. Hough has promised to refund the money to me, but has not done so.

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TESTIMONY TAKEN FEBRUARY 16, 1877.

Joseph Sheehan, *sworn*.

I reside at 683 North Eleventh street. Am in the wholesale and retail dry goods and cloth business. Have been there three or four years. I paid something over \$16 for license last year, and about the same the year before. Paid my license to the city treasurer.

In 1876 an exemption was procured for me—at least it purported to be such. A certain party told me he could fix it for me. This was before I paid my license. He didn’t ask any pay, and I didn’t pay him anything. He brought me a paper similar to this one. [Paper exhibited to witness.] In the first place I got a notice to pay my tax. A paper was afterwards brought to me purporting to be an exemption. The word “exempt” or something like that was written on the back. I do not remember whether anything was written on the back. I was afterwards notified to come to the treasurer’s office and pay my license. I had the paper I received produced at the treasurer’s office, and was informed that it was worthless. I then paid my license. I paid no costs. Had not been sued. The party who offered to procure my exemption was John Hough.

John Hough, *sworn*.

I reside at Manayunk, Twenty-first ward, Philadelphia; am in the dry goods business. I was not employed at any time by the mercantile ap-



praisers; I know that certain promises of exemption were made in 1876 to certain parties doing business in that ward; they were not made by me on my own responsibility, but were made by me for other persons. The promises to procure the exemptions were made to me by James Atwell—in fact he suggested the matter to me; he lives at Twentieth and Columbia avenue; he is now employed at Harrisburg as a clerk for General M'Candless; do not know what his business was then; Mr. Atwell stated to me that parties could be exempted from payment of mercantile tax by paying five dollars apiece, which would be a saving of about three dollars. Many of them did pay the five dollars to me—some fifteen or twenty in all in my ward paid me the money; when I ascertained that the licenses were not paid, I paid the money back again to the parties. I understood that this money was to go to the city treasurer's office. I did not pay any of it into the city treasurer's office; I paid the money to Atwell—all of it. I do not know of any connection Atwell had with the city treasurer's office, except on his representation. He represented that he had authority from one of the appraisers to make the exemptions. He brought me Samuel Josephs name on the exemption papers and also Mr. Tittermary's; I mean their signatures; I got the exemption papers before I had collected the money, and upon the receipt of the money I handed it over. The same thing was done in 1875, and I thought it was perfectly legitimate. I do not think over three persons got their exemption papers from me in 1875—John M'Veagh and Mr. Behald. I got them their papers; I paid \$5 and was exempted myself. Samuel Josephs' name was on my exemption. I have some money to pay back to Mr. Cassidy. I got \$15 of the money back yesterday that I had paid; got it from Atwell. I paid no license in 1875 or 1876, but paid \$5 in 1875 to be exempted. In 1875 the mode of exemption I have referred to succeeded, but in 1876 the parties were obliged to pay their licenses; I was exempted in 1876 myself. I am rated in the fourteenth class, and pay \$8 13 license. The merchants in my ward generally are rated in the fourteenth class.

John Boileau made the appraisements in 1875 and 1876 for Mr. Josephs. Mr. Josephs was mercantile appraiser in my ward in 1874, 1875 and 1876. I paid the \$5, which I gave to be exempted in 1875, to Atwell.

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#### TESTIMONY TAKEN FEBRUARY 23, 1877.

N. F. English, *sworn*:

I was never a member of the board of mercantile appraisers. The publication of my name as such was premature. I have never had anything to do with the office. Know nothing from personal knowledge of the system of granting mercantile licenses. I was collector of mercantile licenses

for one term, I think it was in 1874. I never drew any salary, or authorized any person to draw it for me. In making collections of mercantile taxes I did not find many exemptions. Know nothing practically of the system of mercantile appraisements. Generally the taxes which are nearly uncollectable go into the hands of the collectors. The city treasurer appoints the collectors, and they pay over their collections to him. I have had no connection with the collecting of mercantile taxes since 1874. I was compensated by a percentage on the amount collected.

James Atwell, *sworn*.

I have never held the position of clerk to the mercantile appraisers. Have never had any connection with the office. Never acted as the clerk of Samuel Josephs. Was never employed by him for any purpose. I tried to procure exemptions from mercantile taxes, but failed. The gentleman is now dead who was to get it done. It was General Zulich. I had several persons exempted, who kept small cigar stores, who didn't sell more than ten dollars worth a week; this was two or three years ago. There were none exempted in Manayunk. I tried to get some done for Mr. John Hough. He gave me a list of the names. I went to Mr. Zulich and asked him whether it could be done. He was not an appraiser. Have heard that Hough procured exemptions for some persons. I owe Hough some money for dry goods. This debt has nothing to do with exemptions.

[Paper, endorsed "Exempt—S. Josephs," shown witness.] Don't know this signature. Never saw this paper before. There was no arrangement between Hough and myself about exemptions. Never received any money from him for that purpose. Did not hand to him any papers purporting to be exemptions from mercantile licenses. He never informed me that he had got money for that purpose until long afterwards. He never told me he had money in his hands to be paid for exemptions. Hough gave me a list of fifteen or twenty persons for whom exemptions were to be procured. I borrowed \$20 from him. Never received any money from Hough for procuring exemptions. Never was agent for Mr. Josephs in procuring exemptions. In my conversations with Hough I never named any price for which exemptions could be obtained. Did not name five dollars as the price. Never procured an exemption for Mr. Hough himself. Never handed him any paper purporting to exempt him. He told me that he got exempted. I am indebted to Mr. Hough over \$100.

The persons I had exempted were persons who sold less than the amount required by law to pay a tax. I asked Mr. Zulich whether he could get them exempted, but gave him no reason. I never asked him to have them reduced from a higher to a lower class.

Q. If you gave Mr. Zulich no reasons for exempting the persons in whose behalf you applied, what inducement did you suppose he would have for doing so?

A. I presume I said to Mr. Zulich that I wanted it done for a friend of mine.

Q. Then you expected him to do it as an act of friendship to you?

A. Yes, sir; just as I was doing it as an act of friendship for another party.

Q. For what party?

A. For John Hough.

Q. Were you acquainted with any of the fifteen or twenty persons in whose behalf you applied?

A. No, sir.

Q. What reason had you to think that exemptions could be obtained in that way?

A. Hough told me that he had some done the year before.

Q. What right had General Zulich to grant exemptions?

A. I don't know; he had no official position.

Q. Had Hough told you from whom he had procured the exemptions?

A. No, sir.

Q. Did you offer Zulich any money?

A. No, sir.

Q. Did you ever apply to anybody else but Zulich?

A. No, sir.

Q. What business was Zulich in?

A. He was collector of internal revenue here at one time.

(Paper marked on back, "exempt—S. Josephs," shown witness.)

Q. Have you seen papers similar to this before?

A. Yes, sir.

Q. When you asked for an exemption for the parties you refer to, did you expect to get them off without the payment of any money whatever, or only to get their classification reduced?

A. I simply asked General Zulich to see what he could do with the list which I handed him toward exemption, and to report to me what could be done.

Q. Wasn't it your purpose to get these people exempted altogether?

A. No, sir.

Q. How much did you understand they were to pay in case you got the exemption?

A. I had no understanding on the subject whatever.

Q. Didn't you know that these people were to pay five dollars apiece for getting the exemption?

A. I did not.

## TESTIMONY TAKEN FEBRUARY 27, 1877.

George H. Schell, *sworn*.

I will be thirty-one years old in August next. I am private clerk for Mr. Tittermary, one of the mercantile appraisers. I am not employed in the city commissioners' office, at least I am not considered a clerk there. They pay me a salary of \$18 a month for helping them put up the election papers. Putting up the election papers occupies about two months in the year. I have no other occupation from which I derive a salary. Mr. Tittermary pays me up to the first of March every year \$12 a week. From the first of March to the first of June the mercantile appraisers pay me the same salary. Each of them pays a share. From the first of June to the first of December the appraisers pay me twenty-five cents on every license that comes into the commissioners' office. I mean twenty-five cents on every application made from the first of June to the last of December. Each appraiser gives me five cents. These are my only sources of income.

Q. Do you ever take out licenses for tavern-keepers?

A. I do, the same as any constable, on my own account.

Q. How do you do it?

A. They come there and want their license taken out. They give me \$3 or \$5, and I go through it just the same as any constable does.

Q. Is that arrangement made before or after the licenses are classified?

A. The licenses I get out are mostly in the fifth class.

Q. Is the arrangement made before the classification is fixed?

A. The arrangement is made with the parties after they are classified.

Q. Are there many tavern-keepers who apply to have their licenses reduced?

A. A great many—the majority of them.

Q. How is that process performed?

A. They come before the mercantile appraisers and make complaint that they are classified too high. Then they are sworn as to their sales. If their sales are less than \$4,000, they are put in the fifth class; that is if they swear their sales are less than \$4,000. Mr. Tittermary administers the oath always.

Q. Do you mean to say that the classification is never reduced except upon oath?

A. No, sir; I do not mean to say that.

Q. How is it reduced without the oath of the party?

A. It is done as a political favor.

Q. Often?

A. Very often.



Q. To what extent ?

A. Sometimes four or five a day ; sometimes more, sometimes less.

Q. Would they average five a day all the year around ?

A. No, sir.

Q. Have you any memoranda of persons whose licenses have been reduced after examination under oath ?

A. No, sir.

Q. Are they not nearly all of them reduced without being sworn at all ?

A. No, sir ; they are not.

Q. I wish you to re-consider your last answer, and state whether nearly all the reductions are not made without swearing the parties ?

A. They are all sworn by Mr. Tittermary, when he is there, that come there that I have seen, without they are done as political favors.

Q. How is it when Mr. Tittermary is not there ?

A. Very often the city commissioners come in and state that the party is put in too high a class.

Q. Who was sworn on behalf of the Continental hotel when they were reduced from the first class to the fifth ?

A. That question I decline to answer.

Q. Why do you decline to answer ?

A. Because it might subject me to a criminal prosecution.

Q. Was any one sworn from the Girard when that house was reduced to the fifth class ?

A. I decline to answer, for the same reason.

Q. Who was sworn from Mr. Lauber's establishment in the Fifth ward when he was reduced ?

A. That I don't recollect.

Q. Do you mean that anybody was sworn ?

A. I can't remember.

Q. Can you name any person whose classification was reduced as a political favor ?

A. It is a hard matter for me to recollect. Mr. Tittermary generally did it, or one of the other appraisers. Mr. Josephs and Mr. M'Collough often did it.

Q. Can't you tell the names of any persons who were reduced ?

A. I can't tell the names of the parties, but can tell the politicians who brought them there.

Q. How was the classification of the American house reduced ?

A. I don't think it was reduced. I think it was classed and licensed in the fourth class.

Q. They didn't pay you that license ?

A. I don't think they did. I don't recollect taking it out.

Q. Who took out the license for the Continental?

A. That I decline to answer, on the ground that it might eriminate myself.

Q. How much was paid for the Continental license?

A. I don't know.

Q. Did you not pay \$50 at the city treasurer's office for the Continental license?

A. I decline to answer.

Q. Was there any negotiation with any of the appraisers about the Continental license?

A. No, sir.

Q. Was the Continental's classification reduced by the appraisers?

A. No, sir.

Q. Was it done with their knowledge, or with the knowledge of any of them?

A. Not that I know of.

Q. Was the reduction of the Girard made by the appraisers?

A. I don't recollect that.

Q. You have said that you took out licenses for certain houses; can you state for how many?

A. No, sir, I can't say exactly; perhaps ten, fifteen or twenty.

Q. Can you name any of them?

A. No, sir, I don't recollect which they were.

Q. Was the hotel Aubry one?

A. I decline to answer.

Q. Why?

A. I don't recollect whether I did or not.

Q. Then you don't decline to answer on the ground that it would eriminate yourself?

A. No, sir.

Q. Can't you remember the name of one house?

A. No, sir; I took out several in the neighborhood of the Centennial.

Q. Was the Globe one of them?

A. No, sir; Mr. Josephs attended to that himself.

Q. What did he pay?

A. Fifty dollars.

Q. Was the Continental one?

A. I decline to answer.

Q. Why?

A. Simply on the ground that it might eriminate myself.

(License bond No. 2705, of J. E. Kingsley & Co., exhibited to witness, and he is asked.)

Q. Look at this paper and say whether you ever saw it before? Did you ever see that bond?

A. I decline to answer on the ground that I don't want to criminate myself.

Q. Do you know John Gormley?

A. No, sir.

Q. You never saw him?

A. No, sir.

Q. Is this your signature to this bond?

A. I decline to answer.

Q. On the ground that the answer would criminate you?

A. Yes, sir.

(Receipt for licenses to Lafayette restaurant company for \$200, dated May 15, 1876, and signed George H. Schell, exhibited to witness.)

Q. Is this your signature?

A. I decline to answer.

Q. On what ground?

A. On the ground that it would criminate me.

Q. Did you collect \$200 for license at the Lafayette restaurant?

A. I decline to answer.

Q. What did you do with the money you collected from the Lafayette restaurant?

A. I decline to answer.

Q. Did you or did you not collect more than \$63 25 from the Lafayette restaurant?

A. I decline to answer.

Q. I understood you to say that by instructions of Mr. Morris, the president of the board of appraisers, all the hotels at the Centennial were rated in the fifth class?

A. Yes, sir.

Q. Is the Lafayette hotel a Centennial hotel?

A. Yes, sir.

Q. Then if any more than a fifth class license was received from the Lafayette restaurant, it would be without authority of law?

A. Yes, sir.

Q. How long have you been Mr. Tittermary's clerk?

A. Between three and four years.

Q. Are you related to him?

A. He is my brother-in-law—he is married to my sister.

Q. Are you a married man?

A. Yes, sir—twice married.

## TESTIMONY TAKEN MARCH 5, 1877.

Peter A. B. Widener, *sworn*

When the State Treasurer, Mr Rawle, and myself issued instructions to the board of mercantile appraisers last year, we had printed directions put upon the back of their commissions, that exemptions should be granted by the board only by the action of the majority of the members while in session at their office, and that they should make a record of all exemptions and reductions and certify a copy of the same to the city treasurer and the Auditor General. A violation of this rule was to subject the party to removal. We had heard of instances of exemptions being granted on the street, and for political purposes. Some parties came to the office to make complaint because the payment of their license had been demanded from them after they had procured exemptions. I directed suit to be brought in every case. We did not discover the frauds before 1876. The only way to prevent fraud in this business is to require an oath to be taken by every person who asks exemption or reduction, and a record to be made of the same. In nine cases out of ten, the affidavits made by the liquor sellers as to their sales are under the true amount, but we cannot go behind the affidavit. Suits brought by the city treasurer for mercantile taxes are not prosecuted by his successor, and parties finding this out, most of the licenses remaining unpaid at the end of a treasurer's term are lost. Every person who employs another to get his license reduced or to procure an exemption, or who pays his license outside of the office, knows that he is a party to a fraud. The mercantile appraisers decided to assess all the Centennial hotels in the lowest class, and issued instructions accordingly. The reason why the amount of the receipts for licenses published by the Auditor General for last year is some \$35,000 less than the amount of the receipts by the city treasurer, is because the last quarter is not included. Under the present law the cost of advertising the mercantile lists in the city of Philadelphia is about \$45,000. I opposed the passage of the present bill on this account. The publication of the list is commenced in the regular issue of the papers and finished in a supplement. I refused to pay the bills when first presented. After an appeal by the publishers to the State authorities, I was directed by the latter to pay the bills, which I then did. I think the charge for advertising was an outrageous one, and I fought it as such. The publishers were all obliged to subscribe an affidavit prepared by the Attorney General, stating that the list had been published in their regular edition, and that the rate charged was their regular advertising rate. I think the sum of \$14,000, which the publication of the list formerly cost, would be a fair compensation.



## EXHIBIT "A."

*Statement by the Mayor of the number of places in Philadelphia where liquor is sold.*

POLICE DISTRICT.	WARDS.	NO.
First .....	Part of Twenty-sixth and Thirtieth .....	226
Second .....	Part of First, Second, Third and Fourth .....	357
Third .....	Fifth .....	316
Fourth .....	Sixth .....	302
Fifth .....	Eighth .....	154
Sixth .....	Part of Ninth and Tenth .....	196
Seventh .....	Eleventh and Twelfth .....	378
Eighth .....	Thirteenth and Fourteenth .....	262
Ninth .....	Fifteenth .....	260
Tenth .....	Sixteenth and Seventeenth .....	318
Eleventh .....	Eighteenth .....	153
Twelfth .....	Twentieth .....	223
Thirteenth .....	Twenty-first .....	114
Fourteenth .....	Twenty-second .....	113
Fifteenth .....	Twenty-third .....	89
Sixteenth .....	Twenty-fourth .....	256
Seventeenth .....	Part of First, Second, Third, Fourth and Twenty-sixth ..	355
Eighteenth .....	Nineteenth and Thirty-first .....	493
Nineteenth .....	Seventh .....	149
Twentieth .....	Part of Ninth and Tenth .....	120
Twenty-first .....	Twenty-seventh .....	107
Twenty-second .....	Twenty-eighth .....	195
Twenty-third .....	Twenty-ninth .....	140
Twenty-fourth .....	Twenty-fifth .....	179
Total,		5,45

## EXHIBIT "B."

*Statement by the clerk of the quarter sessions of the number of retail tavern licenses in the city of Philadelphia.*

	No.		No.
First ward .....	151	Seventeenth ward .....	162
Second ward .....	147	Eighteenth ward .....	132
Third ward .....	123	Nineteenth ward .....	191
Fourth ward .....	192	Twentieth ward .....	201
Fifth ward .....	308	Twenty-first ward .....	99
Sixth ward .....	265	Twenty-second ward .....	107
Seventh ward .....	164	Twenty-third ward .....	87
Eighth ward .....	117	Twenty-fourth ward .....	408
Ninth ward .....	193	Twenty-fifth ward .....	176
Tenth ward .....	135	Twenty-sixth ward .....	115
Eleventh ward .....	212	Twenty-seventh ward .....	109
Twelfth ward .....	138	Twenty-eighth ward .....	127
Thirteenth ward .....	145	Twenty-ninth ward .....	178
Fourteenth ward .....	188	Thirtieth ward .....	72
Fifteenth ward .....	238	Thirty-first ward .....	210
Sixteenth ward .....	151	Sum total .....	5,241

## EXHIBIT "C."

*Statement of hotel receipts issued by the city treasurer of Philadelphia, for  
the year ending December 31, 1876, inclusive.*

	No.		No.
First ward.....	172	Seventeenth ward.....	182
Second ward.....	147	Eighteenth ward.....	139
Third ward.....	122	Nineteenth ward.....	277
Fourth ward.....	217	Twentieth ward.....	206
Fifth ward.....	296	Twenty-first ward.....	103
Sixth ward.....	277	Twenty-second ward.....	118
Seventh ward.....	157	Twenty-third ward.....	95
Eighth ward.....	138	Twenty-fourth ward.....	353
Ninth ward.....	183	Twenty-fifth ward.....	154
Tenth ward.....	138	Twenty-sixth ward.....	117
Eleventh ward.....	207	Twenty-seventh ward.....	113
Twelfth ward.....	145	Twenty-eighth ward.....	140
Thirteenth ward.....	128	Twenty-ninth ward.....	152
Fourteenth ward.....	171	Thirtieth ward.....	135
Fifteenth ward.....	258	Thirty-first ward.....	156
Sixteenth ward.....	181		
		Total.....	5,379
5,020 receipts, at \$50.....			\$251,000 00
359 receipts, fractional.....			9,491 60
Total.....			260,491 60

REPORT  
OF THE  
COMMISSION TO DEVISE A PLAN  
FOR THE  
GOVERNMENT OF CITIES  
OF THE  
STATE OF PENNSYLVANIA.

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HARRISBURG:  
LANE S. HART, STATE PRINTER.  
1878.





REPORT  
OF THE  
COMMISSION TO DEVISE A PLAN  
FOR THE  
GOVERNMENT OF CITIES OF THE STATE OF PENNSYLVANIA.

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*To the Honorable the Senate and House of Representatives of the Commonwealth of Pennsylvania :*

The undersigned, Commissioners appointed by the Governor of this Commonwealth, pursuant to an act of Assembly, approved May 5, 1876, entitled "An act authorizing the Governor to appoint a commission to devise a plan or plans for the government of the cities of this Commonwealth," to devise a plan for the government of cities, and report the same to the next Legislature, respectfully submit the following report :

The Governor, in his annual message, communicated to the Legislature, January 4, 1876, called attention to the condition of our municipal governments, the want of uniformity in their systems, and to the legislation pertaining thereto, and recommended the appointment of a commission to consider the subject, and prepare such legislation for the consideration of the Legislature, as would, in their opinion, meet the abuses sought to be remedied.

Pursuant to his recommendations, an act of Assembly was passed, which is as follows :

An act authorizing the Governor to appoint a commission to devise a plan or plans, for the government of cities of this Commonwealth.

*Whereas*, The Governor, in his annual message of this year, called the attention of the Legislature to the evils arising from our municipal system, and the necessity of adopting a uniform code for the government of the cities of this Commonwealth ; therefore,

SECTION 1. *Be it enacted, &c.*, That the Governor be, and hereby is authorized to appoint a commission of not more than eleven persons, whose duty it shall be to consider the subject referred to in said message, and to devise a plan for the government of cities, and to report the same to the next Legislature.

SECTION 2. It shall be the duty of the persons so appointed, within one month after their appointment, to meet at the office of the Secretary of the  
1 MUN. COM.

Commonwealth, in Harrisburg, and organize. The said commission shall have powers of adjournment as to time and place. They shall proceed to organize by the election of one of their number as chairman, and some suitable person as clerk.

SECTION 3. The compensation and allowance of the commission, shall be the sum of fifteen dollars per day to each commissioner for each and every day necessarily employed in the performance of the duties of his appointment, to be paid by warrant of the president of the commission, countersigned by the clerk, on the State Treasurer, out of any moneys not otherwise appropriated; the clerk of such commission shall receive such reasonable compensation as the commission, with the approval of the Governor, may direct, to be paid in like manner.

SECTION 4. The said commissioners shall have power to examine the books and papers of any department of any of the cities of the Commonwealth; to qualify and examine, under oath, any person in relation to the affairs of any of the cities aforesaid, and they shall have power to issue subpoenas, and compel the attendance of witnesses, and in case any witnesses summoned to attend, under the process so authorized, the said commission may direct the arrest and imprisonment of the person so offending.

Approved the 5th day of May, A. D. 1876.

J. F. HARTRANFT.

On the 15th day of December, 1876, eleven persons were appointed by the Governor, all of whom accepted the appointment, and have continued to discharge the duties thus devolved upon them, except the Honorable D. Newlin Fell, who, having been appointed one of the judges for the city of Philadelphia, resigned on the 3d day of May, 1877. On the 25th day of August, 1877, Christian Kneass, Esquire, was appointed to fill the vacancy occasioned by the resignation of Judge Fell, and since then has been a member of the commission.

The first meeting of the commission was held at the office of the Secretary of the Commonwealth, on the 19th day of December, 1876, when they organized by electing B. B. Strang, chairman, and Louis Richards, clerk.

Proceeding at once to the performance of their duties, they conferred with the mayor, presidents of council, and heads of departments of the city of Philadelphia, and officers of city governments, and prominent citizens of other cities, and were soon convinced that any proper investigation of the subjects committed to their charge would forbid any attempt to report at the last meeting of the Legislature.

In this connection, it is, perhaps, but just to ourselves to say, that—most of the members of the commission being engaged in active business or professional pursuits—the extraordinary events of the past season have compelled us to perform our labors under disadvantages which could hardly have been expected or foreseen.

Just at the period when we had a right to expect some exemption from the duties of business, or professional engagements, there occurred the unfortunate disturbances, which deranged, for a considerable period, all the affairs of the State and country, and, in common with other citizens, we found ourselves charged with the increased labor and care growing out of this condition of things.

Whatever may be thought either of the wisdom or completeness of our work, we think we may justly claim that we have bestowed upon it all the care possible under the circumstances, and in the time allotted to us, and have performed it under an amount of personal inconvenience which neither your honorable bodies nor the commission had any reason to expect.



After having assigned to the several members the duty of making investigations and report upon particular branches of municipal government, and after a general consideration of the evils attending their administration, the first question naturally presented, was the consideration of the methods of our proposed work, and the manner in which it should be performed.

The message of Governor Hartranft, of January 4, 1876, before alluded to, contained a very complete and elaborate statement of the history, growth, and present condition of the cities of the country, and particularly of our own State. Appended to it, was a detailed statement of the debts of a number of prominent cities in 1867 and 1875, as well as the cost of the several departments of the city governments. It concluded by expressing the opinion: "That all the legislation upon the statute books, referring to municipalities should be repealed, and a comprehensive and uniform code enacted, the main features of which will not be the subject of perennial alteration."

The commission entered upon the performance of their task in complete accord with this recommendation of the Governor, and very much of their time was expended in what they believe to have been a thorough and persistent effort to accomplish that result.

In fact, it may be said, that the extent of their labors is represented, not so much by visible results, as by the consideration of propositions, which on mature reflection they have been finally compelled either to modify or reject.

This will, no doubt, be found true of all well considered attempts, by either commissions, conventions, or legislative bodies, to change or re-construct organic or fundamental law.

We began the attempt to repeal all existing laws referring to municipalities, by preparing, for purposes of reference, an index to all special acts of Assembly heretofore passed for the government of cities, with such memoranda as would indicate the subject matter of each. These are scattered through the pamphlet laws, from 1816—or perhaps earlier—down to 1874, some of them contained, in what are known as omnibus bills, the titles to which indicate nothing whatever of their contents, and this course was absolutely necessary before even a reference to the acts could be made in an intelligent manner. When this work was completed, we were confronted with the astounding fact, that the list contained over one thousand special acts or parts of acts of Assembly.

This list does not include the laws relating to Philadelphia, passed prior to 1854, the act of 1874, relating to the government of cities, and its several supplements, nor any other general law relating to the cities of the State.

While the mere number of these laws, or the space they occupy on the statute books, would constitute no well founded objection to their repeal, yet it must be considered that but a single year has elapsed since the appointment of this commission; that, by the terms of the act, they are required to report to this Legislature, and that they are charged with the duty of preparing a plan for the government of cities, as well as to consider the propriety of repealing existing laws. Under this state of facts, if there were no other reason than the want of sufficient time to examine them, they regret to say that they are not prepared to intelligently recommend the repeal of all existing laws on the subject.

There is still another and a paramount difficulty connected with this subject. Prior to the consolidation act of 1854, the territory now constituting the city of Philadelphia was an incongruous mass, or group, of

borough and city governments. By that act it was united for the general purposes of municipal government, but with a saving of certain rights, customs, institutions, and perhaps trusts, which were exempted from the operation of the general law governing the city.

These have, from time to time, been regulated, continued, enlarged, or restrained by special acts of Assembly. So, in all cities, there are certain special laws, regulating local boards, trusts, &c., under which valuable and intricate rights have become vested. In view of all these facts, while we deem it entirely practicable, in accordance with the recommendation of the Governor, to repeal all existing laws relating purely to municipal government, yet, for the purpose of protecting vested rights, so careful an examination as to the particular acts of the class necessary to retain, is required, that in the limited time allotted to us we dare not, in connection with our other duties, assume the responsibility of doing it in detail.

We believe, however, that the legislation we propose, including the proposition to repeal all acts of Assembly, the retention of which shall not be designated by ordinance, may, perhaps, be considered as supplying and arranging all the machinery necessary for city government.

According to this view, if adopted by the Legislature, all laws inconsistent with it, will be repealed, saving only such special laws as affect rights of property, or such local institutions as we do not, with our present information, feel justified in attempting to interfere with.

In other words, for all general municipal purposes, it may be treated as a uniform code with only such slight variations, in form and machinery as the difference in population and the necessities of the different classes of cities seem imperatively to require.

The attention of the public has been so thoroughly directed during the past few years to the evils which infest our city governments, that no lengthy discussion of them, except in connection with proposed remedies, would appear to be requisite.

As has been well said by a commission in a sister State: "No statement or illustration of them is requisite to a conviction of their existence."

As was said by Governor Hartranft: "There is no political problem, that, at the present time, occasions so much just alarm, and is obtaining more anxious thought, than the government of cities."

The accumulation of permanent municipal indebtedness is justly and universally ranked as overshadowing all others in importance.

A discussion of, or a proposition to correct other evils is chiefly important as bearing upon this subject.

Without referring to particular cities, or making invidious distinctions, it is perhaps sufficient to say that a carefully prepared table showing the increase of population, valuation, taxation and indebtedness of fifteen of the principal cities of the United States, from 1860 to 1875, exhibits the following result:

Increase in population, . . . . .	70.5 per cent.
Increase in taxable valuation, . . . . .	156.9 per cent.
Increase in debt, . . . . .	270.9 per cent.
Increase in taxation, . . . . .	363.2 per cent.

It must be borne in mind that this alarming increase in debt and taxation occurred during a period of great apparent national prosperity, when money was plenty, when property commanded enormous values, and when it was easier to apply the maxim, "pay as you go," than at any other period in our national history.

It is but just, however, to say that many of these debts were contracted



for permanent, substantial and needed improvements, but making due allowance for all such considerations, these figures are justly alarming.

In the language of a distinguished writer on the subject: "When we take into consideration that the most careful analysis of the amount of annual accretions of capital by the economy of a great community, in prosperous times, is somewhat less than three per cent. of its gross products, it is quite obvious that the inhabitants of American cities are rapidly approaching the point where they will sacrifice to their city administrations the whole annual increase of their combined labor," and when it is considered that the payment of the interest, and, in many cases, the principal of these debts must be provided for in the face of decreasing values and depreciating securities, and of the attendant diminished receipts, the significance of these figures is still more apparent.

All attempts to protect the property of the citizen by constitutional or legislative provisions limiting or regulating the amount of city indebtedness, have, thus far, proved lamentable failures.

By the Constitution of 1874, section 8, article IX, it is provided that the debt of a county, city, borough, township or school district, or other municipal or other incorporated district, shall never exceed seven per centum on the assessed value of the taxable property therein.

This provision was intended to prevent the incumbering of the property of any citizen, for public purposes, to a greater extent than seven per centum. It was demanded by public sentiment, and, no doubt, largely influenced the popular vote in favor of the Constitution.

In its workings, it has been an absolute failure, and has not accomplished the purpose intended.

In every city of the State, except Philadelphia, the city is a part of the county government. The county has the power to borrow money to the extent of seven per centum. The city, to the extent of seven per cent. The general school district may borrow, to the extent of seven per cent., and the ward school districts, each, to the extent of seven per cent., making twenty-eight per centum in all, which can be lawfully imposed, and has been authorized by the act of 1874.

Nor is this all. After the adoption of the Constitution, limiting, as has been seen, the power to contract debts to a certain per centum of the assessed value of property, in order to evade its provisions, the assessed value of property in nearly every city of the State, was largely increased; in some instances, incredible as it may seem, to the extent of one thousand per centum.

It is therefore clear that no sufficient protection against an undue increase of municipal debt can be found in provisions of this kind.

The apparent restriction is easily evaded, by raising the assessed values to which the ratios of debt and taxation would apply.

The next line of investigation was directed to the inquiry whether any change in the methods of organizing city governments would be likely to produce such economy in their administration as would check the tendency to extravagant expenditures.

This resulted in the opinion that many changes ought to be made in the construction and organization of the several departments of city governments, having in view a more thorough system of accountability, and a more economical administration of their affairs.

These will be referred to in detail, in connection with the changes proposed, but it is apparent that no remedy can be found in this direction at all adequate to the evils complained of.

A commission appointed by the Governor of the State of New York,

composed of eminent gentlemen, after a very thorough investigation, have proposed, as a remedy, a property qualification for electors,—at least for that branch of the city government having power to levy taxes and disburse moneys.

This proposition was supported by an elaborate argument, and has been fully discussed by the Legislature and through the press of that State. It naturally attracted the attention of the commission, and received their careful consideration.

The result is, that while we are prepared to admit the force of many of the arguments in its favor, and that, perhaps, in a city like New York, it might prove effective, yet we are forced to the conclusion that in our own State no important results could be expected from requiring such a qualification.

The city of Philadelphia, appropriately called the city of homes, contained in August, 1876, 143,936 dwellings. It is estimated by those best informed on the subject that 5,000 have been built since that time, so that, in round numbers, Philadelphia now contains 150,000 dwellings.

The number of votes cast at the last municipal election was 127,520, and it is not claimed that the city contains more than 135,000 voters.

It will thus be seen that the great bulk of voters are either owners of houses or tenants paying rent. Hundreds of blocks of comfortable houses, constructed with all modern conveniences, and renting from \$12 50 to \$20 per month, are scattered throughout the city. These are mainly occupied by the more intelligent class of mechanics and operatives in manufacturing and other establishments.

The provision recommended by the commission for the State of New York, requiring the payment of an annual rental of \$250, as a qualification for voting, would in our State exclude this very large and reputable class of citizens, while it would not exclude the tenants of low grog-shops and other disreputable establishments, who, in most cases, pay a higher rent.

While it would, no doubt, exclude some of the irresponsible class, it would also exclude very many of the sons of reputable property holders, who would exercise the right of franchise honestly and intelligently.

We are also led to believe that the undue accumulation of debt in most of the cities of our State has been the result of a desire for speculation on the part of owners of property themselves.

Large tracts of land outside the built up portions of cities have been purchased, combinations made by men of wealth, and councils besieged, until they have been driven into making appropriations to open and improve streets and avenues, largely in advance of the real necessities of the city. In many of these cases, owners of property need more protection against themselves than against the non-property class.

Again: it is but just to say, that in many cases the largest debts have been contracted, not by authority of councils, or any department of the city government proper, but under the provisions of special acts of Assembly, appointing commissioners to open streets, park commissions, building commissions, &c., passed not only without the request of councils, but very often against their earnest protest.

For these, and many other reasons which might be given, the commission are not prepared to recommend a property or rental qualification for voting as an adequate protection against municipal debt. After the fullest investigation, they have been forced to the conclusion that there is but one method by which the rapid increase of permanent debt, which threatens in the near future to confiscate the property of the citizens in many of the cities of the Commonwealth, can be arrested.



It is the deliberate judgment of the commission, that it is only by absolutely forbidding any city to borrow money that any good can be accomplished.

They have, therefore, provided sections 3 and 4, article 17, of the proposed bill, that no city shall have power to borrow money, except in case of a casualty happening after the making of the annual appropriations, which necessarily requires an extraordinary expenditure, and that councils shall, in the ordinance authorizing the commissioners of the sinking fund to borrow money, levy a tax for its payment, to be raised in the next annual tax levy and collected therewith.

It will thus be seen that the authority to borrow money in such cases, is accompanied by a requirement to provide the means for its payment out of the succeeding tax levy.

The commission did not reach this conclusion without long and anxious consideration, nor without a very general consultation with leading citizens of the State. They were not unmindful that many and some apparently well founded arguments could be urged against it, but they believe that on examination they will be found more specious than real.

To the argument that many permanent improvements are made for the benefit of future generations, and that posterity ought to pay for them, the reply is, that for many of the burdens of municipal debt, posterity is always here. We must not forget that the great bulk of the debt now crushing the cities of the country have been contracted within a very few years.

The system of commencing public improvements by issuing bonds, for posterity to pay, is evil, and only evil, and that, continually. This is, especially, true in the smaller and growing cities of our State. In many cases, they have sprung up suddenly, as the result of mineral, oil, or other developments, and the lands over which they were likely to extend have been gobbled up by speculators, who had no object but to make the most money in the shortest time. Controlling the real estate, they were able to control the municipal affairs of the city, and soon came to consider them as much their property as the land they bought. Fraud and peculation began to taint such transactions from their very inception. When the honest councilman supposed he was voting to issue bonds for fifty or a hundred thousand dollars, some ring in councils so manipulated the bill as to make it authorize the issue of half a million, or an unlimited amount. It is not doubted that in many cases of this kind the discount at which the bonds were sold was equal to the total value of the work performed, and which is claimed to represent the debt of the city. To sum it up in a word the men who authorized the contracts were substantially the men who professed to perform them. The men who fixed the prices, were substantially the men who received the pay for performing the labor, and the men who issued the bonds were the men who received the money. Is it any wonder that in cities of this class, the citizen finds his home encumbered with an annual tax rate, much greater than the interest on the amount he could sell it for, long before "posterity" has succeeded him. Strange as it may seem, there are several cities in the State the amount of whose indebtedness no human ingenuity can ascertain. Even where the business is honestly and carefully conducted, the tendency to undervalue the extent of obligations, where their performance is postponed for a long period of time, is universal and irresistible. It warps the judgment of individuals, whether in a public or a private capacity, both as to the necessity of an undertaking and the expense attending it. Many a scheme of improvement, the folly of which is now apparent to all, would have been arrested at the outset if either

councils or the citizen could have been brought to face the proposition that the cost must be paid as the work progressed.

The interest begins to run at once, the credit of the city is affected, the debt is an incumbrance on the property of every citizen, and in every point of view the popular saying that a bonded debt is chiefly a charge on posterity is a delusion and a snare.

As an illustration of the evils attending this system, the commission submit some facts which have come under their observation in the course of their investigations—

In 1869, the city of Pittsburg commenced the erection of water-works, since which time the work has been progressing, and is still unfinished. A new loan of \$300,000 has just been placed on the market, the proceeds of which are to be used in their construction, which will make \$4,806,000 already expended on the work.

Out of this sum, about \$900,000 was paid for pipes, a comparatively small portion of which has yet been used, and they may now be seen, lying in piles, about the outskirts of the city, and for miles along its thoroughfares. The contract for these pipes was made at a rate of over \$80 per ton, and those not used, and from which the city has, of course, derived no benefit, could now be bought for a little over \$30 per ton.

The bonds issued for this purpose, bear interest at the rate of seven per cent. Counting the cost when the works are finished at \$5,000,000, in round numbers, the annual interest on the same will amount to \$350,000; the amount to be raised for the sinking fund as required by the Constitution will be \$100,000 annually, making a total of \$450,000, to be raised in each year by taxation for this purpose. It is asserted by those best informed on the subject, that had this sum been raised annually, and applied to the construction of the works, they would have been completed before this time, at a much less expenditure than will now be required, and the people of the city thus relieved from a burden of taxation to be imposed for many years to come.

As another instance in point, we refer to what is known as the Penn Avenue debt of the same city, which now amounts to \$5,823,000, and the improvements are not yet completed, the expense of which was originally assessed according to the frontage rule, assessing the cost of the improvement equally upon the feet front abutting upon the street, without reference to the relative value or location of the land. By a recent decision of the Supreme Court, declaring this method of assessment to be unconstitutional, the burden of this debt will be cast upon the city at large, unless prevented by necessary and just legislation. (See *Seely vs. The City of Pittsburg*, 1 Norris, p. 360.)

We may add, that this recommendation is made in accordance with the opinion of the great majority of the citizens of the several cities of the State whom we have consulted.

It would avail little to forbid cities from borrowing money if we did not undertake to so organize the departments, and separate the legislative and executive functions of the city government, as well as to so guard the annual tax levies as to prevent the constantly recurring deficiencies arising from the failure to provide by the tax levy for the annual expenses.

The great vice of the present system, is the practical consolidation of legislative and executive powers in joint committees of city councils.

The heads of departments appointed by councils are merely the agents of these committees, not only in the administration of these trusts supposed to be committed to departments and in the appointment of subordinate



officers, but in the payment of bills and current expenses not embraced in special contracts, thus affording opportunity for, if not inviting, corrupt combinations between the two branches of city government.

This anomalous condition of things is confined, to our system, entirely to the prevailing plan of municipal government. It does not exist either in the State or nation, and is believed to constitute a principal reason why the government of cities has proved the only failure under our republican system.

The effort in articles III and IV of the bill accompanying this report, entitled the Legislative Power and Legislation, has been to limit the powers of city councils in cities of the first, second, and third classes to the performance of legislative functions.

This complete divorce of the city councils from all executive duties, and the express limitation of their powers to such legislation as may be needed for the efficient administration of the departments specially charged with executive duties, not only removes the necessity for the creation of joint committees, and the perpetual meetings of such bodies, but tends to render them less attractive to dishonest men, and if no such necessity exists, then a good ground for their prohibition. Stripped of all executive power, there is nothing left for councils to do which may not be readily accomplished during the semi-annual sessions proposed. This renders it possible for men of business, competent and trustworthy, who have, with all honest citizens, a common and personal interest in the public welfare, to take part in the legislative branch of the municipal government.

It will not be asking too much of them to give a limited portion of their attention to the honorable service of protecting and promoting the true interests of a community of which they form a part, whose character and credit, at home and abroad, are matters of deep and common concern.

The bill provides that, in all cities above the fourth class, there shall be but two sessions of council annually, one of which is limited to twenty, and the other to sixty days, giving to the mayor the right to call special sessions for any specific purpose. It is believed to be an undeniable proposition of political economy, that no nation could long endure a perpetual session of legislative bodies.

Under the present system, which gives to joint standing committees the practical control of all municipal executive departments, the councils, or their committees, are almost in perpetual session. In the city of Philadelphia, the two branches meet four times in every month, except during a short summer recess, and vigilant members devote two or three days nearly every week in the year to public affairs. Under such conditions, very few persons who are engaged in business, which demands their personal supervision, are willing to assume the absorbing duties imposed upon a member of councils, while, in many instances, needy, incompetent, and irresponsible persons, who have no stake in the community, and no visible means of livelihood, eagerly seek and obtain such positions. Inasmuch as no salary or compensation of any kind is attached to a membership of councils, the question suggests itself: Why do such persons labor so diligently to win office?

The answer is found in the accumulated debts and high tax rates which now oppress nearly every city in the Commonwealth.

Carrying out this idea, which was a leading thought with the commission, we have endeavored to make such provisions as to the qualification and number of councilmen, the manner of their election, their tenure of office, and the methods of compelling the attendance of witnesses, as they believed

would tend to elevate the character of councils, and give them proper control of the subjects committed to their charge.

First, as to qualification. We have provided, section 2, article III, that members of select council shall be owners of real estate within the city assessed and taxed, in their own names, for municipal purposes, for not less than three years previous to their election, and shall not be delinquent in the payment of any tax, and shall, for four years, have been residents of the city.

The commission do not propose any general discussion of the distinction between the objects and functions of general, State, and municipal governments. The former have been aptly defined as embracing "the rights of persons, property, and the judicial systems instituted for their preservation—government in its proper sense. These are vast domains, which the functions of municipal corporations and municipal officers do not touch."

Municipal governments affect the general absolute rights of citizens to a very limited extent—their main object being to secure faithful administration of financial trusts—to secure the proper application of large sums of money to their proper uses. In this respect, and to this extent, a city government is, to all intents, a partnership between the citizens who own the property to be affected by taxation, and contribute the money to be expended for municipal purposes.

In this view, it does not seem too much to require that one branch of councils should be composed of owners of property within the limits of the city they are selected to govern.

It is the only branch of the city government in which property will have any distinct representation.

No high standard in this respect is proposed, but simply that one branch of councils should represent, to some extent, the property, which, by their action, they charge with the payment of many millions of dollars annually.

The number of members of councils has been so fixed as in our judgment will best protect the interests of cities of the respective classes.

As to the method of election the commission encountered great difficulty.

The ward system is open to the objection that it results in two branches, representing precisely the same constituency, subject to the same local combinations, and controlled by the same local interests, so that both branches of councils, instead of being, in a just sense, the representatives of the whole city, are merely the representatives of the local divisions in which they reside, and too often hold their office upon condition that they secure the greatest share of appropriations to be expended for the improvement of their own immediate locality.

The system of electing by districts received the careful consideration of the commission, is open to the same objection, only, perhaps, in a lesser degree than the ward system.

We are convinced that one branch of councils ought to represent the city at large, and be elected by all the voters.

The minority system of voting, would, it is believed, as a rule, make the nomination of political conventions equivalent to an election, save in those exceptional cases where the masses of the citizens are aroused to the necessity of participating in election affairs.

We, therefore, provide, section 5, article II, that members of select councils shall be elected on a general ticket, by the qualified electors at large.

We trust the ultimate effect of this provision, in connection with the other provisions of the bill, limiting and defining the powers of councils



will be largely, if not entirely, to divest the position of political importance, and that citizens will unite, without distinction of party, in selecting the best men for that place.

Section 20, article III, is a new provision. Its necessity is universally admitted, and is intended to give councils proper powers to investigate, whenever the peculations and frauds which are constantly recurring, may render it necessary. Of course, any abuse of it would be corrected by the courts, whose duty it is always to see that the liberty of the city is not improperly restrained.

In pursuance of the same general purpose, it is provided, section 1, article XVII, that councils shall be invested with all the powers, in relation to the raising and appropriating of moneys, which may now be possessed by any branch of city government.

The object of this provision is to concentrate the entire taxing power under one general head, so that citizens may know exactly what branch of the government is authorized to encumber their property by taxation, and be able to hold it to a strict accountability.

Its importance will be better understood when it is known that, in all the cities of the State, there have existed separate and distinct organizations, possessing, within themselves, both legislative and executive functions. Among these may be enumerated school boards, with powers of taxation; poor boards, with powers of taxation; boards of health, with interfering powers; building commissions, with powers of taxation, and expenditure of moneys; street commissions, bridge commissioners, water commissioners, and other organizations, exercising functions properly belonging to the municipality, and with independent powers to create municipal liabilities, and thus, indirectly, to impose taxes upon the people.

We have also provided, that every warrant shall state specifically against what item of appropriation it is drawn, and that, if the controller shall approve any warrant for which no appropriation has been made, or for the payment of which there shall not be a sufficient balance of the proper fund, both he and his sureties shall be individually liable therefor. Also, that every contract shall designate the item of appropriation against which it is made, or if it be a contract for which annual appropriations may be made, he shall certify the extent to which appropriations and payments have been made, and that the city shall not be liable for warrants drawn without appropriations, or upon contracts in excess of appropriations made therefor.

#### Executive Departments.

The attempt to separate the legislative and executive functions creates a necessity for remodeling, to some extent, the executive departments.

The commission have adopted the simple plan, which has thus far been pursued with so much success in the national and State governments. Whatever may be its merits in other respects, it contains nothing intricate or difficult to understand.

It is, simply, to make the mayor the executive head, and the heads of departments his advisers, just as the President is the executive head, and the cabinet his constitutional advisers, or as the Governor is the executive head, and the Attorney General, Secretary of State, &c., his constitutional advisers.

At present there are in the city of Philadelphia some twenty-five separate and distinct departments of municipal government, few, if any, of them being accountable to any general head, which annually collect and

disburse from twelve to fourteen millions of dollars, raised by taxation. These departments have been created, from time to time, by legislative enactments; some of them, as the necessity for their existence was discovered, and some, it is feared, without any pressing occasion, beyond a desire to create a lucrative office.

By the provisions of the proposed bill, they are reduced in number to eight, and the general powers and duties of each, as well as their responsibility to a general executive head, are intended to be clearly and fully defined.

#### **Department of Public Safety.**

In the department of public safety have been grouped and to its charge have been committed all the affairs of the city, appertaining to its public powers in the largest sense.

It is to be under the charge of three directors, one of whom shall be the head thereof.

The care, management, administration, and supervision of the police, health, fire, fire-alarm telegraph, and building inspection affairs of the city are to be confided to this department.

No policeman or subordinate officer of this department shall be discharged, except for cause, and a system of promotion may be established by ordinance, or, in the absence of such ordinance, by the directors of the department. Policemen are forbidden to take part, as members or delegates, in political conventions, on penalty of dismissal from office.

Provision is also made for a pension fund, to be maintained by equal and proportionate monthly charges, for the benefit of members of the fire and police force, who have been honorably discharged for disability, and the families of those who have been injured or killed in the service. The main features of this article have been, in some form, in operation in many of the large cities of the country, and have received the approval of thoughtful persons, who have given attention to the subject.

#### **Department of Public Works.**

The bill provides that this department shall also be under the charge of three directors, one of whom shall be the head thereof.

No special principle seemed to be involved in the construction of this department, and it only appeared necessary to commit to its charge such of the affairs of the city as properly appertain to it.

The effort has been in this case, as in the construction of the other departments, to consolidate all the affairs of the city in the nature of public works, such as water-works, gas-works, the control, repair, and lighting of streets, public buildings, bridges, and structures of every kind for public use, and place them under the supervision of one general head.

It is believed that a reference to the article will show that every subject has been grouped into this department properly appertaining thereto.

#### **Department of Finance.**

In cities of the first class, provision is made for a department of finance, to consist of three directors, one of whom, appointed by the mayor, is to be the head of the department. He is required to be a competent accountant, and may receive a salary for his services. One is to be elected by each branch of councils, and to serve without compensation. The important duties assigned to this department render it necessary that its directors shall be placed beyond the influences of political changes and combinations.

Their terms of service, therefore, continue during good behavior. The mayor can remove for cause, with the concurrence of two thirds of the members of select council.

This department is to have charge of the fiscal concerns of the city. City treasurers, boards of revision of taxes, assessors and collectors of taxes, and all officers to whom the special duties of assessing, revising and collecting taxes is now, or may hereafter be, assigned, and all officers charged with the care, receipt, collection, custody, management or disbursement of funds derived from loans, licenses, water rents, rents from markets, landings, wharves and other public property and interests, are attached and made subordinate to this department, and subject to its supervision, control and direction. But boards of city trusts now existing, created by an act of Assembly, will continue to perform their functions as heretofore, and are not disturbed.

With the exception of the city treasurer, who is to appoint his own clerks, and the assessors appointed by boards of revision, all the subordinate officers of the department will be appointed by the department, subject to the confirmation of the select council. The records, papers and vouchers of all other departments are subject to its examination at any time. Estimates of the appropriations required for all purposes are to be made, and presented to the councils annually, for their information, by the directors of the finance department. The provisions thus made, taken in connection with the powers of the controller, and the general supervising authority of the mayor over the accounts and administration of all the departments, and his right to suspend from duty any officer for sufficient cause, would seem to constitute all necessary safeguards over public moneys and property. In other cities than those of the first class, the department is to be constituted as may be provided by ordinance.

#### Department of Law.

No important changes have been made in the construction of this department. Some provisions are inserted as to the duties of the city solicitor, which, it is believed, will prove beneficial.

It is provided that he shall prepare all contracts made with the city, or any of its departments, and indorse his approval of the form thereof on each, before it shall take effect as a contract. Also, that he shall prepare all bonds and other instruments of writing in which the city is concerned, and receive a reasonable fee therefor for the use of the city, to be fixed by ordinance.

The purpose of this is to secure correctness and uniformity in the preparation of such instruments, to protect the citizen from imposition in charges, and to prevent the city solicitor from receiving any compensation other than the salary fixed by law for his services. He is also prohibited from compromising or settling any suit to which the city is a party, without the order of the court having jurisdiction, after hearing, on a rule to show cause. This will remove all opportunity for corrupt or improvident settlement of claims to the prejudice of the city.

#### Department of Education.

The department of education is charged with the control of the public schools and educational interests in the several cities. In cities above the fourth class the members of the board constituting the department are to be elected at the same time, in the same manner, and for the same terms as members of select council, and in cities below the third class in the



same manner, at the same time, and for the same terms as members of the common council. In all cities the qualifications of members of the board are the same as those required for members of the common council. The offices of school director and controller are abolished, the election of a superintendent of education by the board provided for, and all necessary powers for the efficient and economical management of the public schools are vested in the department created by the bill. The taxing power now lodged in the school boards of some of the cities of the Commonwealth, is taken from them and transferred to the legislative department, where it properly belongs.

In cities of the first, second, and third classes, one third of the members of the department are required to be elected every year after the first election under the act.

In Philadelphia, the school system as now organized differs from that of every other city in the Commonwealth. The entire city constitutes a district. The board of education consists of one member from each ward, appointed by the courts of common pleas. Sectional boards of directors, consisting of twelve members in each ward, are elected by the voters of the ward.

The sectional boards appoint the teachers and janitors. The course of studies is prescribed by the district board, which controls contracts for supplies and all expenditures, and prepares the estimates for the annual appropriations. For practical purposes, the system is without a responsible head, and its value may be known by a brief analysis of some of the official reports of results, as follows:

In 1840, the number of pupils was 23,192, and the cost of the system, \$125,740, or rather less than five dollars for each pupil.

In 1850, the number of pupils was 48,056, and the cost of the system, \$408,762, or about \$7 63 for each pupil.

In 1860, the number of pupils was 63,530, and the cost of the system, \$512,014, or about \$8 05 for each pupil.

In 1870, the number of pupils was 82,891, and the cost of the system, \$1,197,901, or about \$14 45 for each pupil.

In 1875, the number of pupils was 95,552, and the cost of the system, \$1,634,653, or rather more than \$17 for each pupil.

Not more than twelve pupils in a thousand reach the high schools. Not more than one fifth of all the pupils reach the grammar schools. Four fifths of the whole number of pupils are found in the primary and secondary schools, and never pass beyond them. These are no better prepared for the occupations of life than those who were taught in the same schools thirty-seven years ago. There is certainly nothing which compensates the city of Philadelphia for the enormous increase in the cost of education within the last twenty years. The increase of salaries does not wholly account for it. The unnecessary multiplication of teachers and of school buildings with costly furniture probably does.

What is true of Philadelphia, in this respect, is applicable to the other principal cities of the State, to a greater or less extent.

While the common school system is the pride of the State, and justly dear to all citizens, the fact cannot be ignored that its administration in cities is affected by the vices which pervade their whole system of government; and after much earnest and anxious consideration of the subject, we are of the opinion that the change proposed will tend to restore the management of common schools in cities to its original simplicity, and limit them to their real purpose of preparing the child for the intelligent performance of the duties of life. It will also tend to promote economy



by concentrating the taxing power, and providing that the expenses of school districts and school boards shall be subject to the same supervision and scrutiny as the accounts of other departments of the city government.

The frequent changes of school books in some of the school districts, and the high prices charged for them, are matters of much complaint. In Philadelphia, books are supplied to the schools at the public cost. In all other cities of the Commonwealth they are purchased by the pupils. For their protection, the bill provides that text-books shall not be changed oftener than once in five years, and publishers who furnish them are required to give bond to the city that the price shall not be increased after their adoption, and that they will not sell such books at less than the price stipulated in their proposals in any other city or district.

Another great reform in connection with this department, which needs no elaboration, is that provision which prevents school teachers from being removed unless for cause. This prevents the making of a political machine out of the schools, and enables worthy men and virtuous women to retain places which they are fit to fill during good behavior—an incentive, surely, to the highest efficiency in the performance of duty.

#### **Department of Charities and Correction.**

This department, as proposed, will consist of a president and four directors. The president of the board to be appointed by the mayor, for a term of five years, if he shall so long behave himself well. The directors to be elected by councils. The special reasons for this division of the appointing power will be considered under the head of mayor and elections and appointments to office.

To this department is confided the care, management and supervision of the charities, prisons, almshouses, hospitals, houses of refuge and correction, and all other similar institutions.

So vast and intricate are the subjects committed to the charge of this department, varying so greatly with the financial and sanitary condition of the city, that any attempt to provide, in detail, for the performance of its duties would only result in confusion and failure. The largest latitude has, therefore, been given to it in the appointment of its subordinate officers, and as to the manner in which its duties shall be performed.

It is subject, at all times, to inspection and examination by the mayor and committees appointed by either branch of councils. Councils are empowered to provide, by ordinance, for all things needful for the proper and efficient regulation and management of all such institutions.

#### **Sinking Fund Commission.**

The mayor and two citizens, to be chosen annually by each branch of councils, respectively, shall constitute the sinking fund commission.

Nothing in this article seems to call for special comment. It consists mainly of a compilation of existing laws and regulations, by which that department has heretofore been governed. They seem to have worked well thus far, and the commission have studied to avoid making any change, for the mere sake of change.

#### **Appointments and Elections to Office.**

Much of the preceding discussion of the general features of the bill may be considered as bearing upon the provisions of this article. It is intended to carry out the leading thought in the whole work of the commission,

which is to model city governments on the plan of the State and national governments.

Heretofore, in the city of Philadelphia, with a population of over eight hundred thousand, embracing more territory and containing more buildings than any city of the Union, the mayor has been, substantially, a mere chief of police. In many cities of the State, the mayor is clothed with the enormous powers of a justice of the peace.

It is evident that the attempt to establish the principle before referred to, must, of necessity, result in making the mayor the executive head, and equally clear, that to undertake to hold him responsible for the good government of the city, without giving him power to appoint the heads of departments, would be absurd.

We have, therefore, provided that the mayor shall nominate, and by and with the advice and consent of the select council, appoint—

The head and directors of the Department of Public Safety;

The head and directors of the Department of Public Works;

The head of the Department of Finance;

The head of the Department of Law;

The head of the Department of Charities and Correction.

It is believed that these provisions embrace all the officers who may be properly considered as exercising executive functions, in the sense in which the word is popularly used as applying to city governments.

The city controller is, so far as the accounts of the city are concerned, the "tribunal of last resort." He is to audit and settle the accounts of all the departments, and all the accounts in which the city is concerned, the expenses of the mayor's offices included. The commission have therefore not deemed it wise to connect him with any other department, and have provided for his election by councils in joint convention.

They have also provided for the appointment of a city treasurer by the mayor, to be approved by each branch of councils, respectively.

The city treasurer is merely the receiving and disbursing agent of the city, and it was deemed proper that each branch of councils should be invested with power to pass judgment on the qualifications and fitness of the person proposed to fill that office. Two members of the sinking fund commission are to be elected by each branch of councils, for the reason that the mayor is made a member of that department.

As has been said before, so vast and varied are the interests committed to the charge of the department of charities and correction—extending to every condition in social life, and exciting the interest of all classes of the community—that it was deemed advisable to divide the responsibility between the mayor and councils, and provide for the election of the directors of that department by the legislative branch of city governments.

The commission would fail to perform their whole duty in this regard, if they did not undertake to present to your honorable bodies, and the public, another and a very important consideration which has influenced their judgment in making these provisions.

While in townships, villages, and the smaller cities, the people are brought into daily contact with each other, and the whole community are prepared to judge of the character, standing, and qualifications of the candidates for office, this, in a great city, is utterly impossible.

With the frequently recurring elections, and the multitude of officers to be elected, it is completely beyond the power of the average citizen to gain any accurate information as to the fitness of many of the aspirants for the positions they seek.

Under the system proposed, the necessity for such inquiry will be en-



tirely concentrated upon the respective candidates for mayor. Neither party will dare to present as candidates any other than citizens possessing the highest order of qualifications, and each elector will be enabled to exercise his political preference with the assurance that he runs no risk of voting for an unworthy candidate.

#### Finance, Revenue, and Taxation.

This article invests the city councils with the sole power of raising and appropriating the public money. The anomaly of various bodies, within the municipal body having the power to levy taxes and appropriate public money, or to make contracts for which the city may be bound and to meet which the courts must compel the city councils to levy sufficient taxes has been already adverted to.

The mischiefs resulting from this state of things have been of the most serious character. Much of the existing city debt has come from investing commissions for the erection of public buildings and bridges, and opening streets, and other non-legislative bodies with this power. It is confessedly in violation of the fundamental principles that underlies the system of republican government. The taxing power, and the appropriating of the money raised from the people thereby, can only be properly and safely lodged with the representatives of the people elected for that purpose. The members of councils very justly complain that they are held accountable for the accumulation of debt and wasteful expenditures, when in point of fact these bodies, without responsibility to the Councils, or to any other power, have made improvident and extravagant contracts, which councils are compelled to provide for by taxation.

The commission cannot urge too strongly the absolute necessity of confining these powers to the legislative branch. If this is done, and rigidly adhered to, there may be some hope of reducing city expenses and placing our city governments upon a sound and economical basis. Without it financial ruin and bankruptcy must be their inevitable fate. Under the first section of article XVII of the proposed bill, councils have the exclusive control in this respect, and it is believed that no more beneficial or necessary provision can be made for the insuring and promotion of good government.

Again: it is provided that the city shall only be bound to the extent of appropriations actually made upon contracts which are to consume more than one year in their execution. This becomes necessary, in order to protect the city against damages, and also to enable the city to suspend work upon a contract, when it may be deemed expedient, without being liable to contractors beyond the appropriations made for the current fiscal year. This is new in its application to city contracts, but similar provisions have been adopted, to a considerable extent, in the making of contracts by private corporations, and have been found highly beneficial. Such provisions become essential to the proper working of the scheme proposed by the commission. This will be apparent upon an examination of the remaining provisions of this article.

By this article, section 3, no city can borrow any money except for unforeseen contingencies, and in a subsequent section it is provided that in the first succeeding tax levy, the amount so borrowed must be raised, and the temporary debt thus contracted must be extinguished.

The theory of the bill on this subject is

1. That no permanent debt shall be contracted ;
2. That each year's taxes shall pay each year's expenses ;
3. That councils shall not authorize, nor shall officers of any kind make

contracts by which the city can be bound beyond the amount of the actual tax levied to meet such obligations, at the time they become binding on the city.

To insure the working out of this theory, section 8, of the article under consideration provides how the tax rate shall be determined. It leaves nothing to the discretion or caprice of councils.

It leaves no room for councils, who may be profligate, on the one hand, and afraid of public indignation, on the other, to make wasteful and extravagant appropriations, and then to arbitrarily establish a tax rate which must fall far short of the amount required to meet the expenditures. This cannot be done. Under this bill the tax rate is adjusted by the proportion which the amount of the appropriations for the succeeding fiscal year, to be raised by taxation, bear to the value of the assessed property. It is a self-adjusting or automatic arrangement, from the results of which there can be no escape and no evasion. If councils make unusually large appropriations, the tax rate will go on the taxpayer in the same proportion. The people will realize at once the burden, and if the councils shall have been unwise or wasteful, they will be held immediately accountable. There can be no longer any accumulation of floating debts to be funded into permanent loans. The commission, after the most careful consideration, are convinced that this is the strongest barrier that can be interposed against the increase of city debts.

If these provisions are adopted and carried into execution, they will pay each year's expenses with each year's revenue, and certainly there can be no consummation more devoutly to be wished for than such a reform as this.

The remainder of this article mainly provides the machinery for collecting the taxes. There is nothing new in these provisions, and hence there seems to be no necessity for commenting upon them.

#### Streets and Improvements.

This article provides that the cost of opening and widening streets shall be assessed upon the property benefited. This is the law at present in nearly all the cities in the State.

In the matter of the assessment of the cost of grading and paving streets, we have departed from what is known as the frontage rule. Under that rule, the entire cost of the improvement of a street is assessed equally by the foot front on the several properties abutting thereon.

Whilst this rule, as applied to properties of about the same value and character, or receiving about the same benefits, was proper, and worked no wrong, yet to apply it as an inflexible rule to all properties along the line of an improvement, regardless of values, character or actual benefits, results in the grossest inequalities and oppression.

In many cases, whilst certain properties along the line of an improvement have been benefited far in excess of the frontage assessment other properties, on the same improvement, have been assessed much more than their value, and the result has been confiscation, under the guise of benefits.

We propose that the cost of grading and paving streets shall be assessed by viewers. It is made the duty of the viewers to first inquire whether the property abutting upon the improvement is benefited to the extent of the cost, and if they shall so find, they shall assess the same upon said property, according to benefits; but no property shall be assessed an amount exceeding twenty-five per cent. of its valuation. If any excess remain unassessed upon abutting property the viewers shall assess the same upon all property in the vicinity benefited, subject to the same limitation of twenty-five per



cent., and should any excess still remain unassessed, the same shall be paid by the city at large.

The system proposed protects the property owner by providing, first, that no street shall be improved, unless on petition of a majority in interest along its line; second, that no assessment of benefits shall be made, unless benefits are actually received; and third, that the assessment of benefits shall be limited to twenty-five per cent. of the valuation of the property, and thus no oppressive burden imposed.

Our course in this particular is in accord with the late decisions of the Supreme Court, and with what is demanded for the protection of private property.

In the matter of construction of sewers, we have allowed much latitude, and the city councils may choose the system best fitted to the situation of the city and its former legislation on the subject. This was rendered necessary from the fact that each city has a different system, upon which large expenditures have been made, and no change seemed to be necessary, either for the greater efficiency of the system or the protection of the property owner. We have, therefore, left the subject to the local legislature.

The remaining provisions of this article furnish the method by which the assessments shall be collected, and require no special mention.

An attempt to discuss all the provisions of the proposed bill, in detail, would swell this report beyond all reasonable proportions.

Many of its features will be found to consist of a compilation of existing provisions, inserted for the purpose of making the plan as complete as possible. They are mere matters of detail, and require no special notice. We will, therefore, content ourselves with alluding, as briefly as possible, to some other sections of the bill, more for the purpose of inviting attention to them, than of attempting any elaborate discussion of their merits.

We have provided in article XVIII what we believe to be a simple and speedy method for impeachment and removal of unfaithful city officials, in which the cumbersome machinery usually employed in such cases has been dispensed with, and the means of impartial and thorough investigation brought within the reach of any twenty freeholders of the city, who can satisfy the court that there are reasonable grounds for proceeding. Under this provision, it will be scarcely possible for a guilty official to escape detection and punishment, or that any one unjustly accused shall suffer wrong.

It is also provided that the mayor may disapprove any item of an appropriation bill, and the parts of the bill so disapproved shall have no effect unless passed over the mayor's veto, according to the rules and regulations prescribed; also, that councils shall establish, by general ordinance, the salary of each officer of the city, and the amount of the official bond, with the security thereon, and by whom the same shall be approved.

The commission encountered great difficulty in their attempt to properly classify the cities of the State. Their difference in size and population, ranging from mere hamlets, with a population of four or five thousand, up to eight hundred thousand, and above all, the complications resulting from previous legislation, in which the customs, habits, and ideas of so many communities are represented, were all considered. This subject will be referred to more at length in considering the proposed constitutional amendments.

In this connection, we have provided a plan by which small cities may surrender their corporate rights, and rehabilitate themselves in garments better suited to their size. It may be true that some villages have,

in anticipation of a growth that has not been realized, adopted the intricate forms and machinery of city government, from which they would gladly be released. This section of the bill provides a section by which they may relieve themselves from such burdens, and a form better adapted to their capacities and necessities.

We have endeavored to clearly define and confer all corporate powers necessary for the government of cities, and to express an intention to confer upon them all the powers necessary for municipal government, and thus remove all necessity for legislative interference in that respect.

We have also provided in the article on contracts, that upon complaint of any citizen and tax payer that public work is being done contrary to contract, or that improper material is being used, the mayor shall examine into the complaint, and after taking proper means to inform himself as to the subject matter thereof, he may make such reasonable order as the public interest demands, thus requiring contractors to perform their work under the supervision of the chief executive officer of the city, and subject to his reasonable control.

Express power is given to the courts to restrain, by injunction, the execution of any contract or the performance of any work in which the city is interested whenever the public interest may require it. Also, that the city shall never become liable for improvements, the cost of which is to be paid by assessments on the property abutting or benefited.

The introduction of a board of harbor commissioners into the bill, to be appointed upon the nomination of the executive council of the board of trade, will dispense with the board of port wardens as now constituted, and place the control of the harbor of Philadelphia in efficient hands. Intelligent merchants, familiar with the necessities of commerce, seem to be the proper persons to have charge of harbor regulations and the shipping interests of the port.

We have endeavored to apply the general principles of municipal government to all cities alike, making only such exceptions in details in favor of small cities as seem necessary, so as not to encumber them with useless and unnecessary machinery.

#### **Proposed Constitutional Amendments.**

During the consideration of subjects committed to their charge, the commission have been led to believe that some amendments to the Constitution are required for the protection of municipal governments, and to secure the efficient working of the system they propose, and we, therefore, recommend the following amendments:

When, in the classification of cities any class shall embrace but one city, the General Assembly shall pass no law relating the affairs of such class of cities, unless upon application made by joint resolution of the councils thereof, passed by the votes of two thirds of all the members elected to each branch, recorded by yeas and nays, approved by the mayor.

No person shall vote at any municipal election in any city of this Commonwealth, unless, in addition to other qualifications, he shall have paid, within two years, a city tax, assessed in such city upon real or personal property, or occupation, for municipal purposes, which shall have been assessed at least two months, and paid at least one month before the election; and the General Assembly may prescribe a longer time than two months for residence as a qualification for voting at municipal elections.

Any resident tax payer of a city, without distinction of sex, otherwise qualified, shall be entitled to vote at all city elections.

The General Assembly shall have power to abolish the office of justice



of the peace or alderman within the several cities of this Commonwealth, and to provide for the appointment of one or more recorders of each city, who shall be learned in the law, and shall have such civil and criminal jurisdiction, and shall be appointed for such term and in such manner as the General Assembly shall determine.

The subject of a proper classification of cities was, as has been said, one of the most difficult questions we were compelled to consider. It is to be regretted that, notwithstanding the provisions of the Constitution prohibiting special legislation intended mainly to apply to municipal governments, it is still within the power of the Legislature to pass special acts applying to particular cities of the State. This can be done under the existing classification as created by act of Assembly, which has been sustained by the Supreme Court, and it may be done under that proposed in the bill accompanying this report. Indeed, it could be done under any classification based on a proper recognition of the difference in size, population, and commercial necessities of the several cities of the Commonwealth.

This amendment, if adopted, will carry out to its full extent the principle of local self-government, as asserted in the Constitution and demanded by public sentiment, by preventing legislative interference with the affairs of cities, except at their own request, through the medium of the legislative branch of their municipal governments.

While, for reasons that have been before adverted to, the commission are not prepared to recommend a property qualification for voting, it seems desirable that some distinct qualification for voting at municipal elections should be required. It seems to be a self-evident proposition, that where a community has attained sufficient proportions to entitle it to a form of city government, some separate and distinct qualification for the exercise of the elective franchise ought to be prescribed, and that such qualification should have some relation to the functions of the particular form of government under which it is proposed to be exercised.

Having recognized the principle that the right of suffrage at municipal elections should be exercised by those who pay the municipal taxes, it follows, as a logical sequence, that in this respect there is no valid reason for any distinction between the sexes.

Whatever may be thought of the general question as regards the political rights of women, we do not consider the subject as involved in this proposition. The amendment simply proposes to accord to women who are taxed for city purposes, an equal voice for the protection of their property.

The necessity for creating courts of limited jurisdiction, possessing a higher order of qualifications than are possessed by the aldermen and justice of the peace, elected in the several wards in the larger cities, has become so apparent that no discussion of this proposition seems necessary.

The abuses of the system have become notorious. It was abolished by the Constitution in Philadelphia, and it is believed that this amendment will recommend itself to favorable consideration, without further notice.

An attempt to discuss all the provisions of the proposed bill

Following the example of all constitutional conventions and recognizing what we believe to be a correct principle, we have not attempted to interfere with the fees, perquisites or tenure of office of any officer now elected or holding his position by virtue of existing laws.

With the submission of this report, the labors of the commission



are ended. How far they have succeeded in performing the task assigned to them, is submitted to an intelligent public. The importance of the subjects committed to their charge cannot be overestimated. All the people of the Commonwealth have an interest in the good government of its cities. They are the great consumers of agricultural and mineral products, the seats of learning and refinement, and contribute largely to our common prosperity. Oppressed with debt and taxation, with no prospect of relief under existing and varying systems of government administered without proper responsibility, and too much in the interest of strong combinations of men who prey upon public treasuries, it is only surprising that those who bear the burden of taxation, and whose property is so heavily mortgaged by public debts, have been patient so long. The demand for a better system can no longer be unheeded.

We have performed our part of the duty in that direction, and ask your approval of our work. That efforts will be made to destroy it we cannot doubt. No avenue to fraud can ever be closed without strenuous opposition. No remedy for public evils can be devised, however perfect, that will not be assailed by those who detect in the remedy an obstruction to private schemes of personal aggrandizement.

We feel assured that a body which so readily responded to the public demand for constitutional reform by providing for the election of a convention, will give the plan we propose and the remedies we suggest for the evils of municipal government a patient and careful consideration.

In conclusion, we cannot avoid the performance of what we believe to be our duty by asking your honorable bodies to either pass or reject the proposed bill as a whole.

We may be pardoned for saying, that we are not so vain as to suppose that it is by any means perfect. We do not suppose it possible for human skill to provide in advance for all the exigencies which may arise in municipal affairs. Yet so closely interwoven are the several provisions of the bill we propose, that it would be impossible to make any substantial change without destroying the symmetry of the whole. If time and experience should develop any defects, they can easily be supplied by future legislation, and we believe the benefit resulting from the adoption of the system we propose, will amply compensate for any mistake or omission in mere matters of detail, which are of minor importance.

All of which is respectfully submitted.

B. B. STRANG, *Chairman*,  
WILLIAM CALDER,  
CH. GIBBONS,  
JOHN C. BULLITT,  
B. M. BOYER,  
CHARLES THOMSON JONES,  
W. R. MAFFET,  
F. M. MAGEE,  
WILLIAM B. RODGERS,  
CHRISTIAN KNEASS.

HARRISBURG, 29th December, 1877.

## AN ACT

For the Government of the Cities of this Commonwealth.

## ARTICLE I.

## CLASSIFICATION AND CREATION OF CITIES.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That for the purposes of municipal government, the cities of this Commonwealth shall be divided into classes:

Those containing a population of three hundred thousand, and over, shall constitute the first class.

Those containing one hundred and twenty thousand, and under three hundred thousand, the second class.

Those containing fifty thousand, and under one hundred and twenty thousand, the third class.

Those containing ten thousand, and under fifty thousand, the fourth class.

And all under ten thousand, heretofore incorporated, the fifth class.

SECTION 2. Whenever it shall appear by the national census, that an increase or decrease of the population of a city entitles it to a change of classification, the councils thereof may, by resolution, to be approved by the mayor, under the corporate seal, make application to the Governor for admission to the proper class, and thereupon he shall, by proclamation, change the classification accordingly, and the government of the city shall be made to conform thereto.

SECTION 3. Cities may be constituted by a vote of the majority of the electors of any borough, or of two or more contiguous boroughs or townships, or parts of townships, uniting for such purpose, having an aggregate population of at least ten thousand, and the proceedings in such case shall be as follows, viz: The corporate authorities of such borough, or boroughs, shall pass an ordinance or ordinances, submitting the question to a vote of the citizens thereof, and of such townships, or parts of townships, at a regular municipal election, notice of which shall be given at least four weeks prior thereto by publication. The tickets to be voted shall be labeled on the outside "city," and contain on the inside the words, "for city," or "against city," and a duplicate return shall be made to the Secretary of the Commonwealth.

SECTION 4. If it shall appear, by the returns, that there is a majority in favor of the formation of a city, in each borough and township, or parts thereof, voting upon the question, the corporate authorities of such borough, or boroughs, shall, within sixty days after said election, file in the office of the Secretary of the Commonwealth, a description and draft of the boundaries of the proposed city; and the Governor shall issue letters patent, under the seal of the Commonwealth, incorporating the same, under the provisions of this act, by such name as may have been adopted by ordinance. If by the returns of such election, it shall appear that there is a

majority against the formation of a city, in either of said boroughs or townships, or parts of townships, no other election shall be held for the same purpose, in such borough, or boroughs, for three years thereafter.

## ARTICLE II.

### CORPORATE POWERS.

SECTION. 1. Every city, within this Commonwealth, is declared to be a body politic and corporate, in law and in fact, and by its name shall have perpetual succession, and shall have the powers hereinafter mentioned, and may provide, by ordinances, not inconsistent with this act, for the full and efficient exercise of the same or any of them.

SECTION 2. The cities of this Commonwealth shall have all the powers necessary for their government, except as herein limited, and not conflicting with the Constitution and laws of this State, or the United States.

SECTION 3. The powers granted in the preceding sections shall, among other things, be deemed to include the following:

I. To have, purchase, take, and receive lands, tenements, and hereditaments, franchises, goods, chattels, and effects, to them and their successors, and the same to grant, bargain, sell, alien, and convey, or demise and dispose of at their will and pleasure.

II. To sue and be sued, in all courts of record and elsewhere, in any action, suit, complaint, plea, cause, or matter whatsoever, and to do and execute all matters and things, that to them, as corporations, shall and may appertain, and have and use a common seal, and the same, from time to time, to change, alter, deface, and make anew

III. To levy taxes upon property taxable for State or county purposes, sufficient to pay the annual expenses and the authorized liabilities of the corporation, regulate the time and mode of collecting the same, and provide and enforce penalties for default or neglect of payment, at the time required by law or ordinance.

IV. To establish parks, erect buildings, wharves, and all other structures, for the purposes of the city, and regulate the uses of the same.

V. To take private property for public uses, on just compensation being paid or secured to the owner thereof, as provided by law.

VI. To erect bridges, open, establish, improve, grade, pave, and regulate streets, footways, passages, and alleys, remove obstructions therefrom, and have control of the same, and regulate the uses thereof.

VII. To restrain, under penalties, the running at large of domestic animals, within the limits of the city, and to impound and sell, or otherwise dispose of them, for the penalty imposed, and to regulate the driving of cattle and other animals through the streets.

VIII. To protect property from damage or destruction by fire or water.

IX. To supply the city with water and light, and regulate the use and distribution of the same, and, for said purposes, to erect or purchase gas and water-works.

X. To prevent the corruption of water in streams running within the limits of the city.

XI. To construct sewers, and regulate the drainage of streets, cellars, buildings, and constructions of every description, and compel the removal of offensive substances from the same.

XII. To do all things necessary to preserve the health of the inhabitants, and prevent the introduction and spread of contagious and other diseases, and, for that purpose, to make quarantine regulations, and enforce the same.



XIII. To prohibit or regulate the carrying on of any art, trade, manufacture, or business, in the city, noxious or offensive to the inhabitants thereof, and to prevent and abate nuisances.

XIV. To suppress gambling houses, and authorize the seizure and destruction of all instruments and devices, used for the purpose of gambling, that may be found therein.

XV. To suppress disorderly houses and houses of ill-fame, and close all taverns and saloons, and other places frequented by professional thieves, or disorderly persons, or where gambling is permitted.

XVI. To regulate the construction of buildings, fire-places, chimneys, flues, cellars, areas, privies, cess-pools, and water-closets, vaults, party walls, and division fences, provide for the inspection of the same, and cause walls and structures, which may be insecure or dangerous, to be properly secured, or removed, at the cost of the owner, and to provide for the numbering of houses in the city.

XVII. To make contracts relating to any of the affairs, property, or business of the city.

XVIII. To establish and regulate hospitals, work-houses, and poor houses, and to provide for the government and support of the same.

XIX. To license and regulate the use of vehicles, of every description, kept and used within the city.

XX. To license and regulate the use of steam power, and other artificial motors, within the city.

XXI. To provide for and regulate the use of the streets and highways, by railroads and railways, within the built up portions of the city, and the rate of speed at which railway engines, cars, and trucks shall pass upon or across the streets; and also to regulate or prohibit the use of steam signals and whistles within the limits of the city.

XXII. To regulate the sale, storage, and use of gunpowder, and all explosive and dangerous substances, and the carriage or transportation of the same within the city.

XXIII. To levy and collect a license tax on all trades, business, and occupations, of every description, carried on within the city, and also upon all shows and exhibitions for profit, and places of diversion and amusement.

XXIV. To levy and collect a license tax on telegraph poles, and all other contrivances on or under the public streets or footways, owned or used by corporations or individuals, for their profit or convenience, and regulate the location and use of the same.

XXV. To levy and collect a license tax on sign boards, and other devices for advertising purposes, when suspended, or exhibited over, or carried, or conveyed, in any manner, from place to place, upon the streets or footways of the city, and to regulate or prohibit the use of the same in such places.

XXVI. To regulate and define the powers and duties, and fix the compensation of officers of the city, and other persons in its service.

XXVII. To require from all officers and agents of the city, elected or appointed, bonds and security for the faithful performance of their duties, and also, to require additional security when deemed necessary, and in case of failure of any officer or agent to give such security, or additional security, when and as required, within a time limited, to declare the office or place vacant, and cause the vacancy to be filled, as provided by law or ordinance.

XXVIII. To prohibit the adulteration of food, and the sale, as food, of diseased or corrupted animal or vegetable substances.

XXIX. To establish market places, and regulate the weighing, measuring, and sale of articles and commodities exhibited thereat, or sold on the public streets, or elsewhere, and regulate the sale of bread by weight.

XXX. To organize and maintain a police force, and regulate the employment, and prescribe the duties of its officers and members.

XXXI. To prevent, restrain, and suppress riots, routs, noises, disturbances, or disorderly assemblies, in any street, house, or place in the city, and prevent public indecencies and the desecration of the first day of the week, commonly called Sunday.

XXXII. To prevent the discharge of fire-arms, rockets, powder, fire-works, or the use of any dangerous combustible material in the streets, alleys, or elsewhere, in the vicinity of private or public buildings within the city.

XXXIII. To arrest and set to work on the streets or elsewhere, under proper supervision and restraint, all vagrants and notorious thieves found in the city without visible and lawful means of support.

XXXIV. To divide the city into wards, and establish the boundaries of the same.

XXXV. To prohibit the setting up or opening of any tavern, sample-room, restaurant, or other place for the sale of liquor or for any other business detrimental to public or private property in the vicinity thereof, or to the health and comfort of the occupants of the same.

XXXVI. To prohibit the erection of buildings composed of combustible or dangerous materials in any part of the city.

XXXVII. To prohibit the sale of liquors on Sundays and on days appointed for State and municipal elections, and on the said days, and on occasions of riot, conflagration, or threatened public disorder, to close taverns, sample-rooms, bars, and places where liquors are drunk, and to regulate the closing of the same during the night at all times.

XXXVIII. To appoint the places of holding elections.

XXXIX. To regulate and protect places for interment of deceased persons, and remove bodies interred contrary to ordinance.

XL. To impose fines, penalties, and forfeitures for the breach of any ordinance, and to provide for the recovery, collection, and enforcement of the same.

### ARTICLE III.

#### THE LEGISLATIVE POWER.

SECTION 1. The legislative power of cities shall be vested in a municipal assembly, consisting of two bodies, which shall be known as the select and common council, respectively.

SECTION 2. Members of the select council shall be at least twenty-five years of age, citizens of the State for four years, residents of the city, and owners of real estate therein, assessed and taxed in their own names, for municipal purposes, for not less than three years preceeding their election, and not delinquent in the payment of any city tax, assessment, charge, or claim whatsoever.

SECTION 3. The select council, in cities of the first class, shall consist of twenty-seven members;

In the second of eighteen;

In the third of fifteen;

And in the fourth and fifth of nine.

SECTION 4. In cities of the fifth class, councils may provide, by ordinance, or one legislative body, to be denominated the city council, which shall

consist of not more than fifteen members, who shall hold office for three years, and have the same qualifications and be elected in the same manner as herein prescribed for members of common council.

SECTION 5. Members of select council shall be elected on a general ticket, by the qualified electors at large, for the term of three years, and, except at the first election, one third shall be chosen every year.

The tickets to be voted by each elector shall have on the outside, the words "Select Council," and on the other side the names of the candidates voted for.

SECTION 6. If the full number of select councilmen shall not be chosen, by reason of a tie vote between candidates, the persons chosen at such election shall fill the vacancies from the candidates not elected, who received the highest number of votes.

SECTION 7. In case of vacancies in the select council, the same shall be filled by the remaining members of the body. The appointment shall be in writing, signed by a majority of the members, and shall be entered upon the journal.

SECTION 8. Members of common council shall be at least twenty-two years of age, citizens of the State, residents in and householders or freeholders of the city, for one year next preceding their election, and not delinquent in the payment of any city tax, assessment, charge, or claim whatsoever.

SECTION 9. Members of the common council shall be elected for two years, and shall be apportioned as follows, viz:

Each ward shall have at least one member, but any ward having an excess of three fifths of the ratio hereinafter provided shall be entitled to an additional member.

The ratio of representation in the several classes of cities shall be ascertained by dividing the whole number of resident taxables, by the divisors herein set forth respectively, and the quotient shall be such ratio:

In cities of the first class, the divisor shall be forty;

In the second, it shall be thirty;

In the third, it shall be twenty;

In the fourth, it shall be fifteen;

In the fifth, it shall be ten;

And the members shall be apportioned among the wards according to such ratio.

The apportionment shall be made every six years, at least thirty days before the municipal election, by the mayor and presidents of the select and common councils, according to the last preceding list of taxables prepared by the proper assessors.

SECTION 10. The councils in cities of the first, second, and third classes shall hold two sessions annually. The first of said sessions shall begin on the first Monday of April, and may continue not more than twenty days; the second shall begin on the second Monday of November, and may continue for a period, not exceeding sixty days from that time, and there shall be no other meeting of councils, for the purposes of legislation, during the year, unless the mayor shall, by proclamation, call a special session, at which no subject shall be considered other than such as shall be designated in the proclamation.

SECTION 11. A majority of each council shall be a quorum. Each council shall

Choose a president from its own members, by a majority of the members elected;

Appoint a clerk and other officers;

Determine the rules of its own proceedings;



Be the judge of the qualifications of its members, except in cases of contested elections;

Keep a journal of its proceedings;

Have authority to compel the attendance of absent members, punish its members for disorderly behavior, and expel a member, with the concurrence of two thirds of the members elected.

SECTION 12. Neither branch of councils shall, at any time, adjourn during the term of any stated session, for more than three days, without the consent of the other.

SECTION 13. The yeas and nays on any question shall, at the request of any two members, be entered on the journal. Voting in either branch of council shall be *viva voce*, and no member shall, unless excused, withhold his vote upon any question in which he is not personally interested.

SECTION 14. A member who has a personal, or private interest, in any measure proposed or pending before councils, shall disclose the fact, and shall not vote thereon.

SECTION 15. No resignation of a member of council shall take effect until accepted.

SECTION 16. Members of councils shall not receive any compensation for their services.

SECTION 17. If any member of council shall receive, directly or indirectly, the salary, pay, emoluments, fees, or perquisites, or part thereof, of any officer or employé of the city, county, or State, he shall be expelled from the body, and shall be guilty of a misdemeanor, and, on conviction, shall be punished by a fine, not exceeding one thousand dollars, or imprisonment not exceeding one year, or both, at the discretion of the court.

SECTION 18. No national, State, or municipal officer, or employé of the city, or of any department, trust, or board connected with the city, shall be eligible as a member of councils.

SECTION 19. No member of councils or salaried officer of the city shall be accepted as surety on any bond required to be given to the city, nor shall any contractor be accepted as surety for any other contractor.

SECTION 20. Each branch of councils shall have power to compel the attendance of witnesses, and the production of books, papers, and other evidence, at any meeting of the body, or of any committee thereof, and for that purpose, may issue subpœnas and attachments in any case of inquiry, investigation, or impeachment, and cause the same to be served and executed in any part of the Commonwealth; and if any witness shall refuse to testify as to any fact within his knowledge, or to produce any books or papers within his possession, or under his control, required to be used as evidence in any such case, the council by whose authority such witness was subpœnaced, shall have power to order his commitment to the jail of the proper county, for contempt, and the inspectors and keepers of the jail shall receive and confine such witness therein until he shall be discharged by order of the council, or by due course of law.

SECTION 21. If any person, duly served with a subpœna, shall wilfully neglect or refuse to appear and testify before any committee of either council, or before any joint committee of councils, he shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by imprisonment not exceeding six months, and by fine not exceeding one thousand dollars, or either, at the discretion of the court.

## ARTICLE IV.

## LEGISLATION.

SECTION 1. All legislation by councils shall be by ordinance, and no bill shall be altered or amended on its passage so as to change its original purpose.

SECTION 2. No bill shall be considered unless referred to a committee, returned therefrom, and printed for the use of the members.

SECTION 4. Every bill shall be read at length in each branch at least one day before its final passage.

SECTION 4. No bill shall become an ordinance unless, on its final passage, the vote be taken by yeas and nays, the names of the persons voting for and against the same entered on the journal, and a majority of the members elected to each council recorded as voting in its favor.

SECTION 5. No bill appropriating public moneys or imposing taxes or assessments shall be considered until at least two days after the same shall have been introduced.

SECTION 6. All amendments made to any bill affecting the substance thereof, shall be printed for the use of the members before the final vote is taken.

SECTION 7. No amendment to bills by one council shall be concurred in by the other unless by a vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against the same recorded upon the journal.

Reports of committees of conference shall be printed, and adopted in either council only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journal.

SECTION 8. No ordinance, except an appropriation ordinance, shall contain more than one subject, which shall be clearly expressed in its title.

SECTION 9. Every bill passed by councils, shall be engrossed, certified, and presented to the mayor, and, if he approve and sign the same, it shall be an ordinance, but if not, he shall return it to the council in which it originated, within five secular days after such presentation, with his objections thereto in writing, which shall be entered on the journal, and the council shall proceed to reconsider it. If after such reconsideration, it be passed by a vote of two thirds of the members of each council, to be taken and recorded as provided in section four of this article, it shall be an ordinance, notwithstanding the objections of the mayor.

If a bill presented to the mayor within five days of the final adjournment of councils, be not signed by him, or returned with his objections, before the adjournment, it shall be of no effect.

SECTION 10. The mayor may disapprove of any item or items of any bill making appropriations, and the part or parts of the bill approved, shall be the law, and the item or items disapproved shall be void, unless re-passed, according to the rules and limitations herein prescribed for the passage of bills over the mayor's veto.

SECTION 11. The sessions of councils shall be open to the public.

SECTION 12. No ordinance shall be passed giving extra compensation to any public officer, servant, employé, agent, or contractor after services shall have been rendered or contract made, nor providing for the payment of any claim against the city incurred without previous authority, and any officer drawing or countersigning a warrant for the same shall be guilty of a misdemeanor, and, on conviction thereof, be punished by a fine not exceeding five

thousand dollars, or imprisonment not exceeding one year, or both, at the discretion of the court, but this section shall not prevent councils from authorizing the proper department to alter, modify, or change any contract after the same has been entered into by bill passed for that purpose, according to the provisions of this act.

SECTION 13. No appropriation shall be made for any purpose until all the interest accruing on the loans of the city, and the principal of those becoming due, and the ordinary and necessary expenses of the city shall be adequately provided for; and any appropriation made in violation hereof shall be void.

SECTION 14. Appropriation bills shall state the items under separate and distinct heads.

SECTION 15. Councils of cities where the sessions are limited, shall, at the stated session beginning in November, provide by appropriations for all expenditures of the city for the next fiscal year.

SECTION 16. Councils shall have power to pass such ordinances as may be deemed necessary to carry into effect any power vested in the city government, and enforce obedience to the same by forfeiture, and also by fine and penalty, in any sum not exceeding one hundred dollars, or imprisonment not exceeding ninety days.

SECTION 17. Councils of cities of the first, second, and third classes shall not exercise any executive functions, and no city shall create departments not herein provided for.

## ARTICLE V.

### THE EXECUTIVE POWER.

SECTION 1. The executive power of cities shall be vested in the mayor and in the departments authorized by this act.

SECTION 2. The mayor shall be the chief executive officer of the city. He shall be at least thirty years of age, and shall, in other respects, have the qualifications required for a member of select council.

SECTION 3. The mayor shall be chosen by a plurality of the votes cast at the municipal election, and shall hold his office for the term of three years from the first Monday of April next ensuing his election, and serve until his successor is duly elected and qualified.

If two or more candidates be equal and highest in votes, one of them shall be chosen mayor by vote of the majority of the members elected to councils in joint convention assembled.

SECTION 4. When a vacancy shall take place in the office of mayor, a successor shall be elected for the unexpired term at the next municipal election, occurring more than thirty days after the commencement of such vacancy, unless such election should occur in the last year of said term, in which case a mayor *pro tempore* shall be chosen by councils in joint convention, by the votes of a majority of the members elected, and the person elected mayor shall hold office until the expiration of said term, and until his successor shall be duly elected and qualified, and it shall be the duty of the president of the select council to issue his proclamation for such joint convention, to be held not less than ten, nor more than twenty days after such vacancy shall take place.

Until the vacancy is filled, the president of the select council shall act as mayor.

SECTION 5. It shall be the duty of the mayor

I. To be vigilant and active in causing the ordinances of the city and the laws of the State to be executed and enforced.



II. To communicate to councils, at least once a year, a statement of the finances and general condition of the affairs of the city, with such information in relation to the same as either branch of council may from time to time require.

III. To recommend, by message, in writing, to the councils, all such measures connected with the affairs of the city, and the protection and improvement of its government and finances as he shall deem expedient.

IV. To call special meetings of councils when required by public necessity.

V. To perform such duties as may be prescribed by law or ordinance, and he shall be responsible for the good order and efficient government of the city.

SECTION 6. The mayor shall call together the heads of departments for consultation and advice upon the affairs of the city, at least once a month, and at such meetings he may call on the heads of departments for such reports as to the subjects matter under their control and management, as he may deem proper. Records shall be kept of such meetings, and rules and regulations may be adopted thereat for the administration of the affairs of the city, not inconsistent with any law or ordinance.

The mayor shall be ex officio a member of all boards, and shall have the right as such to participate in their deliberations and proceedings whenever he may deem it advisable so to do.

SECTION 7. The mayor may, with the consent of two thirds of the members elected to select council, remove from office any head of department, director or other officer appointed by him, and he shall be required to remove such officer upon a resolution to that effect being passed by three-fourths of the members elected to select council.

SECTION 8. During the recess of select council he shall have power to suspend any such officer, and designate a person to perform his duties for the time being, but before any removal shall take effect, it shall be subject to the approval of select council, as herein provided. He shall, in all such cases, report to select council the reasons for such suspension or removal. He shall have power to fill all vacancies that may happen in offices to which he may appoint during the recess of the select council, subject to their approval at their next session, and if such appointment shall not be confirmed within ten days after said council shall have convened, the same shall be considered rejected.

SECTION 9. The several heads of departments shall present to the mayor annually, on or before the first Monday of November, a report of their proceedings during the preceding year, and he shall transmit the same to councils at their next session, with any recommendations he may think proper to make.

SECTION 10. The mayor shall withhold his signature from all appropriations, until the interest accruing on the loans of the city, and the principal of those becoming due, and the ordinary and necessary expenses of the city shall be adequately provided for.

SECTION 11. The mayor shall, as often as he may think proper, appoint three competent persons to examine, without notice, the accounts of any department, officer or employé, and the money securities and property belonging to the city in the possession or charge of such department, officer, or employé, and report the result of such investigation.

## ARTICLE VI.

## THE EXECUTIVE DEPARTMENTS.

SECTION 1. There shall be the following executive departments:

- I. Department of Public Safety,
- II. Department of Public Works,
- III. Department of Finance,
- IV. Department of City Controller,
- V. Department of Law,
- VI. Department of Education,
- VII. Department of Charities and Correction,
- VIII. Sinking Fund Commission.

No department shall be created other than those herein enumerated.

SECTION 2. For the purpose of re-distributing the powers conferred and duties imposed upon the officers, departments, and boards of the city government, contained in existing laws, ordinances, and regulations, not repealed or supplied by the provisions of this act, every power heretofore conferred, or duty imposed upon any municipal executive officer, not inconsistent with the provisions of this act, shall be deemed and construed to be the power or duty of the proper department, board or officer, who shall have control of the subject matter in the appropriate department hereby created or authorized.

SECTION 3. Whenever words are used in any existing law, ordinance, resolution, or contract, in force prior hereto, referring to any department or officer of city government, and such law, ordinance, or resolution is not supplied or repealed by this act, they shall be deemed to mean and apply to the proper officer and department having relation to the subject matter, whether named in this act, or in the ordinance re-organizing the departments.

SECTION 4. Councils shall provide by ordinance for such bureaus, clerks, or other subordinate officers as may be required for the transaction of the business of the departments.

SECTION 5. Each department shall have power to prescribe rules and regulations, not inconsistent with any law or ordinance, for its own government, the conduct of its officers, clerks, and employes, the distribution and performance of its business, and the custody, use, and preservation of the books, records, papers, and property under its control.

SECTION 6. Each department shall furnish to the mayor, or councils, such information as he, or they, may, at any time, demand, in relation to its affairs.

## ARTICLE VII.

## DEPARTMENT OF PUBLIC SAFETY.

SECTION 1. The Department of Public Safety shall be under the charge of three directors, one of whom shall be the head thereof.

SECTION 2. The care, management, administration, and supervision of the police affairs, and all matters relating to the public health, to the fire and police force, fire-alarm telegraph, and the inspection of buildings and boilers, shall be confided to this department.

SECTION 3. No person shall be employed in this department as a policeman or fireman who is not a citizen of the United States, or who has been convicted of crime, or who cannot read and write understandingly in the

English language, or who shall not have resided within the State at least one year preceeding his appointment.

SECTION 4. Any policeman or fireman may be discharged by the department for cause, after an opportunity shall have been afforded him of being heard in his defense, or he may be suspended under the rules of the department for a limited time. Vacancies in the fire or police force, shall be filled under proper rules of promotion, to be established by ordinance, or, in the absence of such ordinance, by the department.

SECTION 5. If any subordinate officer or employé of the department, shall receive or share in any present, fee, gift, or emolument, for official services, other than his regular salary or pay, except by the unanimous consent of the directors, he shall be dismissed from the service.

SECTION 6. No policeman or fireman shall, while on duty, enter any drinking saloon or other place where liquors are sold to be drunk on the premises, except for the purpose of discharging the duties of his office, under penalty of immediate dismissal.

SECTION 7. No policeman or fireman shall be a member of, or delegate to any political convention, and any violation of this provision shall work a forfeiture of his position, and it shall be the duty of the department to dismiss him from office, and enter upon their record the cause of such dismissal.

SECTION 8. The superintendent of police, whenever directed by the department, shall appoint, and cause to be sworn in, any number of additional patrolmen to do duty at any place within the city, designated by, and at the charge and expense of the person or persons who may ask for such appointment. They shall be subject to, and obey the orders, rules, and regulations of the department, and conform to the general discipline and special regulations thereof.

SECTION 9. The mayor may, upon any emergency, or apprehension of riot or mob, take command of the police force, and appoint as many special patrolmen as he may deem advisable. During their service, the special appointees shall possess the powers and perform the duties of regular employés of the department, and shall receive the same compensation per diem.

SECTION 10. The mayor shall have power to summon the *posse comitatus* for the preservation of the public peace, and hold and employ such *posse* subject to his direction.

SECTION 11. The department shall make suitable regulations under which the officers and members of the fire, telegraph and police force shall be required to wear an appropriate uniform. It shall be a misdemeanor, punishable by fine and imprisonment, for any person to falsely personate by uniform, insignia, or otherwise, any officer or member of the department.

SECTION 12. There shall be created and established by ordinance a pension fund, to be maintained by an equal and proportionate monthly charge made against each member of the fire and police force, which fund shall be safely invested and held in trust by the commissioners of the sinking fund, and applied upon such terms and regulations as councils may by ordinance prescribe, for the benefit of such members of the fire and police force as shall receive honorable discharges therefrom by reason of age or disability, and the families of such as may be injured or killed in the service.



## ARTICLE VIII.

## DEPARTMENT OF PUBLIC WORKS.

SECTION 1. The Department of Public Works shall be under the charge of three directors, one of whom shall be the head thereof.

SECTION 2. Water-works and gas-works owned or controlled by the city, the supply and distribution of water and gas, the opening, grading, paving, cleaning, and lighting of streets, alleys and highways, the construction and repair of public buildings, bridges, and structures of every kind for public use, public parks, surveys, engineering, sewerage, drainage, and dredging, and all matters and things in any way relating to, or affecting the highways, footways, wharves and docks of the city shall be under the direction, control, and administration of the Department of Public Works, as may be provided from time to time by ordinance.

## ARTICLE IX.

## DEPARTMENT OF FINANCE.

SECTION 1. In cities of the first class, there shall be a Department of Finance, to be under the charge and administration of a board of three directors, one of whom shall be a competent accountant, appointed by the mayor, and be the head thereof, and one elected by each branch of councils. They shall hold their respective offices during good behavior, and until removed by the mayor, with the approval and concurrence of two thirds of the members of select council. The head of the department may receive a salary for his services, and the remaining members of the board shall serve without compensation. In other cities, the department shall be constituted as may be provided by ordinance.

SECTION 2. The Department of Finance shall have charge of the fiscal concerns of the city. City treasurers, boards of revision of taxes, assessors and collectors of taxes, and all officers to whom the special duty of assessing, revising, and collecting taxes, is now or may be hereafter assigned, and all officers charged with the care, receipt, collection, custody, management or disbursement of funds derived from loans, licenses, water rents, rents from markets, landings, wharves, and other public property and interests shall be attached and subordinate to this department, and be subject to its supervision, control and direction. But boards of directors of city trusts now existing, created by any acts of Assembly of this Commonwealth, shall perform their functions as heretofore.

SECTION 3. The city commissioners in any city where such officers are elected, shall be attached to the Department of Finance, and shall perform their duties subject to the supervision and direction thereof.

SECTION 4. The directors of the Department of Finance shall have power, at any time, to inspect, examine, or copy vouchers, records, or papers in any department.

SECTION 5. On or before the first Monday of November, in each year, the directors of the Department of Finance shall make an estimate of the various sums of money required to defray the expenses of the several departments of the city government, and also for paying the interest on the city debt, as well as local, district or ward debts, and the principal of such debts falling due, which estimate shall be founded upon reports obtained from the departments respectively, and when so made, shall be certified in detail to councils, for their information in providing for the aggregate expenditures of the city for the ensuing year.

SECTION 6. In cities of the first class, the board of revision of taxes shall establish not more than six assessment districts, and appoint four assessors for each district, and as many more as the department of finance may authorize, who shall hold office for three years.

Except in cities of the first class, councils may provide, by ordinance, for the selection of assessors.

#### THE CITY TREASURER.

SECTION 7. The city treasurer shall be appointed by the mayor, subject to the confirmation of each branch of councils, and shall hold his office for a term of three years, and until his successor shall be duly chosen and qualified.

SECTION 8. No person shall be eligible to the office of treasurer except a citizen of the city, resident therein for seven years next preceding his election, unless he shall have been absent on public business of the United States, or of this State. He shall be a competent accountant, and any disqualification in this respect shall be cause for removal from office. The treasurer shall not be eligible to appointment for the next succeeding term.

SECTION 9. The city treasurer shall demand and receive all moneys payable to the city, from whatever source, and pay all warrants duly issued and countersigned.

SECTION 10. No money shall be drawn from the city treasury except upon warrants on the treasurer, signed by the head of the appropriate department, and countersigned by the controller, which shall state the consideration of the same, and the particular fund or appropriation to which the same is chargeable. Warrants drawn by the controller for the expenses of his office shall be countersigned by the mayor.

SECTION 11. He shall be charged by the controller with the full amount of all tax duplicates of the several wards, and also with all other accounts placed in his hands by the proper officer for collection, and shall make daily returns to the controller of all taxes paid, and by whom paid.

SECTION 12. The treasurer shall keep the accounts arising from the several sources of revenue and income separate and distinct from one another, and shall make daily deposits of all moneys received by him, in such banks or institutions as may be designated by councils, and specific reports to the controller, once in every week, of all receipts and deposits, and of all moneys withdrawn from the treasury, and shall present and verify his cash account in such manner, and as often as may be required.

SECTION 13. He shall not permit money to be withdrawn from the treasury but in consequence of appropriations made by ordinance, nor permit appropriations made for one department or purpose to be used for any other.

SECTION 14. All moneys of the city, received by any officer or agent thereof, shall be deposited forthwith in the city treasury.

#### ARTICLE X.

##### DEPARTMENT OF CITY CONTROLLER.

SECTION 1. The city controller shall be the head of this department. He shall be elected by the councils, in joint convention, for a term of three years, and until his successor is duly elected and qualified; and they shall meet on the second Tuesday of December for that purpose.

SECTION 2. No person shall be eligible to the office of city controller

unless he be a competent accountant, and any disqualification in this respect shall be cause for removal from office.

SECTION 3. The city controller shall

I. Prescribe the form of reports and accounts to be rendered to his department, and shall have the inspection and revision of the accounts of all other departments.

II. Audit the accounts of the several departments, and all other accounts in which the city is concerned, and submit annually to councils, in such manner as may by ordinance be directed, a report of the accounts of the city, verified by his oath or affirmation, exhibiting the revenues, receipts and expenditures, the sources from which the revenues and funds are derived, and in what manner the same have been disbursed, including all warrants paid, which report shall be published in pamphlet or book form.

III. Keep separate accounts for each specific item of appropriation made by councils to each department, and require all warrants to state specifically against which of said items the warrant is drawn. Each account shall be accompanied by a statement, in detail, in separate columns, of the several appropriations made by councils, the amount drawn on each appropriation, the unpaid contracts charged against it and the balance standing to the credit of the same.

IV. He shall not suffer any appropriation to be overdrawn, or the appropriation for one item of expense to be drawn upon for any other purpose, or by any department other than that for which the appropriation was specifically made, nor unless sufficient funds out of which said warrant is payable shall actually be in the treasury at the time, to the credit of the item of appropriation upon which it is drawn.

V. If any warrant presented to the Controller contain an item for which no appropriation has been made, or there shall not be a sufficient balance of the proper fund for the payment thereof, or which for any other cause should not be approved, he shall notify the proper department of the fact, and if the controller shall approve any warrant contrary to the provisions hereof, he and his sureties shall be individually liable for the amount of the same to the holder thereof.

VI. Whenever a warrant or claim shall be presented to him, he shall have power to require evidence that the amount claimed is justly due, and for that purpose may summon before him any officer, agent, or employé of any department of the city, or any other person, and examine him upon oath or affirmation relative to such warrant or claim.

SECTION 4. Detailed statements of the receipts and expenditures of the several departments shall be made on the third Monday of each month to the controller.

SECTION 5. Every contract involving an appropriation of money shall designate the item of appropriation on which it is founded, and shall be numbered by the controller in the order of its date, and charged as numbered against such item, and so certified by him before it shall take effect as a contract, and shall not be payable out of any other fund; and if he shall certify any contract in excess of the appropriation properly applicable thereto, the city shall not be liable for such excess, but the controller and his sureties shall be liable in damages for an amount not exceeding such excess, which may be recovered in an action on the case for negligence by the contracting party aggrieved.

SECTION 6. Every contract involving expenditures for which subsequent annual appropriations may be required, shall designate the item of appropriation already made therefor, and shall be numbered in the order of its date, and charged to the extent of the appropriation already made, against



the proper item, and so certified by the Controller before it shall take effect as a contract, and shall not be payable out of any other fund. The Controller shall also indorse upon such continuing contracts subsequent appropriations therefor, from time to time, as they may be made, and number, charge, and certify the same as made. The liability of the city on such contracts shall be limited by the amounts which shall have been, or may be, from time to time, appropriated therefor.

SECTION 7. The controller shall, at the end of each fiscal year, or oftener, if so required by councils, and also upon the death, resignation, removal or expiration of the term of any officer, audit, examine, and settle the accounts of such officer, and if he shall be found indebted to the city, the controller shall state an account, and file the same in the court of common pleas of the proper county, together with a copy of the official bond of such officer, and give notice thereof to him, or his legal representatives, and if any person or persons affected thereby shall be dissatisfied with such settlement, he or they may appeal therefrom. The appeal, with his or their exceptions to the account as stated, verified by the oath of the person or persons appealing, shall be filed in the office of the prothonotary of said court within ten days after the service of notice. The appellant shall within ten days enter security to be approved by the court, to prosecute the appeal with effect, and pay the costs, and the debt and interest which may appear by the judgment of the court to be due to the city. The balance of account, as shown by the settlement filed as aforesaid, shall constitute a lien on the real estate of the officer so indebted, and his sureties from the date of the filing thereof. A writ of *scire facias* to enforce the lien may be issued thereon, which shall contain a clause warning the sureties, or the executors or administrators of the officer, or of his sureties, to appear and make defense, and the case shall thereupon be proceeded with to final judgment according to law.

Notice of the audit shall be given by the controller to the officer or his legal representatives, before the final statement of the account, and if desired by such officer or his legal representatives, opportunity shall be given for a hearing. A copy of such notice, with an affidavit of the proof of service thereof, shall be filed with the statement of account as evidence of service of notice.

## ARTICLE XI.

### DEPARTMENT OF LAW.

SECTION 1. The Department of Law shall consist of a city solicitor, who shall be the head thereof, and as many assistants and clerks as may be authorized by ordinance. The solicitor and assistant solicitors shall be attorneys at law, admitted and qualified to practice in the Supreme Court of this Commonwealth.

SECTION 2. The city solicitor shall

I. Be the legal adviser, and act as attorney and counsel for the city and all its departments and officers.

II. Prepare all contracts to be made with the city or any of its departments, and indorse on each his approval of the form thereof, before the same shall take effect, and be the custodian of all such papers and records as may be designated, and perform such other duties appertaining to his department as may be required by law or ordinance.

III. He shall not accept service of any writ or process issued against the city, nor compromise or settle any suit to which the city is a party,

nor consent to the entry of judgment against the city, without the order of the court having jurisdiction in said suit, to be made and entered of record after the hearing of a rule to show cause, which the court shall grant, upon application and upon notice to the other party, and to the proper officer or department.

IV. At least once in every month he shall make a return to the city controller, of each item of money or moneys received by or through him, or his assistants, by virtue of his office, including all fees and perquisites, for the preparation of any contracts, bonds, or other instruments of writing, or such as may be derived from any other subject matter connected with the city, or its affairs, and shall forthwith pay such amount to the city treasurer.

SECTION 3. All contracts, bonds, and other instruments of writing, in which the city is concerned, shall be prepared in the office of the city solicitor, and he shall receive for the city a reasonable fee from the persons for whom such contracts, bonds, or instruments may be drawn, to be fixed by ordinance.

SECTION 4. No department of the city shall employ any other solicitor, but assistant counsel may be employed in any particular matter or cause by the mayor, with the consent of the finance department.

## ARTICLE XII.

### DEPARTMENT OF EDUCATION.

SECTION 1. The Department of Education shall have control of the public schools and educational interests of the city.

In cities of the first class, the department shall be managed by a board consisting of twenty-seven members ;

In the second, of eighteen ;

In the third, of fifteen ;

And in cities of the fourth and fifth classes, the number shall correspond with the number of members of common council, and be apportioned in like manner, and be elected for the same term.

The office of school director and controller and school treasurer in the several classes of cities aforesaid is hereby abolished.

SECTION 2. The members of the said board shall be elected and appointed in cities of the first, second, and third classes, at the same time, in the same manner, and for the same term, as members of select council, under this act ; and in cities of the fourth and fifth classes, after the first election, they shall so divide the term of service that one half the number, as nearly as may be, shall be elected annually.

The qualifications of members of the board, shall be the same as required for members of common council.

SECTION 3. The board shall elect a president, who shall be the head of the department.

SECTION 4. The board shall elect a competent person as superintendent of education, who shall have been, within six years, a practical teacher, and shall have taught, within said period, for at least two years, and shall be capable of deciding upon the qualifications of teachers. He shall perform such duties as may be required by the board. The provisions hereof shall not operate to disqualify any superintendent from reelection.

The board shall also elect such teachers, officers, and employés, as may be necessary. All salaries shall be subject to the approval of councils. No teacher shall be removed, except for cause, under such regulations as the board may prescribe.

SECTION 5. The Department of Education shall divide the city into convenient districts, for the purposes of education, and shall have power to alter or change the boundaries of such districts, at any time, as necessity may require, and shall appoint six visitors, for each of said districts, who shall, under such regulations as the department make, have the charge of school property in their respective districts, and shall visit the public school or schools of such district once in each month, and shall perform such other duties as the department may prescribe. Visitors shall serve without compensation and shall hold office one third for one year, one third for two years, and one third for three years, unless sooner removed by the board; and, in case of vacancy, by the death, resignation or removal of any visitor, the board shall fill such vacancy for the unexpired term.

SECTION 6. The school visitors of the several sub-districts, shall, annually, on or before the fifteenth day of October, furnish the board of education with an estimate of the money necessary for the ordinary expenses of their sub-districts, exclusive of salaries of teachers, and an estimate of the sum necessary to pay the interest on their local indebtedness, if any exist, and to provide a sinking fund for the payment of said indebtedness at maturity.

SECTION 7. In cities, other than the first class, where there is now more than one school district, sub-school district, or independent municipal school district, school buildings may be erected on petition to the department of two thirds of the taxables of the district, the approval of the department and an ordinance of councils making an appropriation for the same, for which a tax shall be levied on the taxable property of the district. But no money shall be expended, nor debt incurred, in any one year in excess of the tax levied for the purpose during the year, and liability upon the contract shall be limited to the amount of money which shall, from time to time, be appropriated for the work.

SECTION 8. The board shall make rules and regulations necessary for the government and management of the schools.

SECTION 9. The board shall prescribe the text-books to be used in the public schools, which shall not be changed oftener than once in five years, but no books shall be hereafter contracted for or used in the schools until the publisher or publishers thereof, or persons proposing to sell the same, shall have named the price for which the books are to be sold to the department or pupils thereof, and such publishers or persons shall have given bond to the city, in such sum as may be prescribed by the board, that the price of the same shall not be increased, nor the material, printing, or binding of the books furnished be inferior in quality, during the period for which the books shall be adopted, and that they will not sell the books adopted, in any other school district in the United States or elsewhere, during such period, in any quantity, at any less sum than the price stipulated in their proposals. It shall be lawful, however, for the board, at any time, to prescribe text-books for new or additional studies, to be used until the time that the next general series shall all be prescribed.

SECTION 10. For the purpose of paying the interest on, and creating a sinking fund for the extinction of the bonds and funded debt of the several school districts in cities below the first class, where such debt existed before the approval of this act, councils, upon estimates furnished by the Department of Education, shall annually, until payment of the debt be fully provided for, levy and collect a tax of not less than one mill, nor more than three mills, on each dollar of the assessed value of the taxable property of each of said districts, which, when collected, shall be paid to the commissioners of the sinking fund, and shall be applied by them to the pay-



ment of interest and extinguishment of the bonds and funded debt of the district, and be managed generally by said commissioners, as in ease of funds in their hands for redemption of city loans. The commissioners shall have power to issue new bonds of such school districts, whenever necessary, for the redemption of bonds of any of the districts or the funding of the present debt, at a lower rate of interest.

SECTION 11. A tax may be levied by councils upon the taxable property in each of said school districts, upon the requisition of the department for the care, preservation, alteration, and repair of the school property in each of said districts, respectively. Such tax shall be levied in the annual appropriation ordinance, upon the same principles set forth in the article on finance, revenue, and taxation.

SECTION 12. All laws or parts of laws relating to common schools, and school property in the several cities of this Commonwealth, not supplied or modified by the provisions of this act, shall continue in force.

### ARTICLE XIII.

#### DEPARTMENT OF CHARITIES AND CORRECTION.

SECTION 1. The Department of Charities and Correction shall be under the charge of a president and four directors, to which department shall be confided the care, management, administration and supervision of the charities, prisons, almshouses, hospitals, houses of refuge and correction and all other similar institutions and interests of, or pertaining to the city, the expenses of which are defrayed out of the city treasury.

SECTION 2. The board shall keep a complete record of all its proceedings, which shall always be open to the inspection and examination of the mayor and of any committee appointed by either branch of councils, and shall appoint all officers and servants required for the several institutions under its management.

SECTION 3. Councils shall have power to provide, by ordinance, for all things needful for the proper and efficient management of the said institutions and the said department, not inconsistent with the provisions of this act, and all able-bodied paupers and vagrants, admitted or committed to any of the said institutions, may be required to work upon the public streets or roads or elsewhere.

### ARTICLE XIV.

#### SINKING FUND COMMISSION.

SECTION 1. The mayor and four citizens to be chosen annually, two by the select, and two by the common council, shall constitute the "Board of Commissioners of the Sinking Fund."

SECTION 2. The said commissioners shall have charge and control of all bonds or other evidences of indebtedness in any sinking fund of the city, and of all moneys appropriated and collected for sinking fund purposes.

SECTION 3. The said commissioners shall

I. Meet at least once a month, and receive from the city treasurer a report of the amount in his hands due to the sinking fund;

II. Invest all such amounts, without delay, in the purchase of the funded debt of the city, which investment shall be in registered bonds, in the joint official names of the commissioners, describing them as such;

III. When they cannot purchase any of said funded debt upon advantageous terms, they shall have power to invest in registered bonds of the

United States, or of this Commonwealth, in their joint official names as aforesaid.

SECTION 4. A majority of the commissioners shall be a quorum, but they shall not invest any of the moneys of the sinking fund as above provided, except under a resolution for such purpose, passed by a majority of the commissioners, by yeas and nays, to be entered of record.

SECTION 5. The commissioners shall present annually to councils, at their first meeting in November, a full and accurate report of their transactions during the year preceeding, and of the amount of money and securities in their hands, and the condition of the fund, and recommend such matters connected therewith as they may deem expedient.

## ARTICLE XV.

### APPOINTMENT OF DEPARTMENTAL OFFICERS, CLERKS, AND EMPLOYES.

SECTION 1. The mayor shall nominate, and by and with the advice and consent of the select council, appoint the following officers, who shall hold office during the term for which the appointing mayor was elected, and until their successors shall be respectively appointed and qualified:

- I. The head and directors of the Department of Public Safety;
- II. The head and directors of the Department of Public Works;
- III. The City Solicitor.

IV. The head of the Department of Charities and Correction shall also be appointed by the mayor, but his term of office shall be five years from the date of his appointment, if he shall so long behave himself well.

V. The mayor shall nominate, and, by and with the advice and consent of each branch of councils, appoint the city treasurer.

VI. The head of the Department of Finance, in cities of the first class, shall be appointed by the mayor, and hold his office during good behavior.

SECTION 2. Councils shall elect the following officers:

- I. The city controller;
- II. Four members of the sinking fund commission, two of whom shall be elected by each branch;
- III. Four directors of the department of charities and correction, to serve for four years;
- IV. Two directors of the department of finance, one to be chosen by each branch of councils, and to hold office during good behavior.

SECTION 3. Except in the department of finance, the directors, or chief officers of departments, shall appoint all subordinate officers and clerks.

Except in the department of finance, the directors or chief officers of departments may remove or suspend subordinate officers and clerks.

In the department of finance, the subordinate officers, except the city treasurer, shall be appointed by the department, subject to confirmation by the select council, and shall be removable at the discretion of the department. In case of such removal the department shall appoint a successor, who shall hold office, subject to confirmation, within ten days after such appointment by the select council, if then in session, or within ten days after the beginning of the next succeeding session, if such appointment be made during a recess.

SECTION 4. The city treasurer shall appoint his own clerks. All other officers, clerks, and employes in the several departments and sub-divisions thereof, shall be appointed and removed by the proper department, or by the officer or board having charge of such sub-division, respectively, except when otherwise provided by this act.

## ARTICLE XVI.

## OATH OF OFFICE.

SECTION 1. Members of councils, and all municipal officers, shall, before entering upon the duties of their respective offices, take and subscribe the oath prescribed by section first of article seven of the Constitution of this Commonwealth.

SECTION 2. The said oath shall be administered by some person authorized to administer oaths, and filed with the controller, except in his own case, when the same shall be filed with the mayor.

SECTION 3. Any person refusing to take the oath hereinbefore prescribed, shall forfeit his office, and any person who shall be convicted of having sworn falsely, or having violated such oath, shall be guilty of perjury, and be forever disqualified from holding any office of trust or profit, under the city government.

## ARTICLE XVII.

## IMPEACHMENT OF MUNICIPAL OFFICERS.

SECTION 1. Municipal officers shall be liable to impeachment, suspension, and removal from office for any corrupt act or practice, malfeasance, mismanagement, mental incapacity, or incompetency for the proper performance of official duties, extortion, receiving any gift or present from any contractor, or from any person seeking or engaged in any work for, or furnishing material to the city, or from any incumbent or occupant of, or candidate, or applicant for any municipal office, and for wilfully concealing any fraud committed against the city.

SECTION 2. Complaint in writing may be made to the court of common pleas of the proper county, by not less than twenty freeholders of the city, each of whom shall write his occupation and residence opposite his signature, charging any municipal officer with any of the offenses named in the preceding section, and setting forth the facts on which the said charge is founded, supported by the oaths or affirmations of at least five of the complainants, according to the best of their knowledge, information, and belief. If, in the judgment of the court, there appears to be reasonable ground for such proceeding, the court shall direct the complaint to be filed of record, and grant a rule upon the accused, returnable on a day certain to appear and answer the same.

SECTION 3. If on the return day of the rule, the court shall find sufficient cause for further proceedings, it shall appoint a committee of five competent and reputable citizens to investigate the charges contained in said complaint, who, having been first severally sworn or affirmed to perform the duties of their appointment with fidelity, shall have full authority for that purpose, to examine the books of the office held by the accused, and any papers, contracts, letters, or documents filed therein, and examine witnesses under oath or affirmation, whose attendance the court shall enforce, if necessary, by subpoena and attachment.

SECTION 4. It shall be the duty of the committee to make a written report to the court of the facts found by them, which shall be filed of record, accompanied by the testimony taken, within three weeks next after their appointment, unless the time shall be extended by the court upon their application. In any stage of the proceedings, if the public interest so require, the court may, by an order to be filed of record in the case, suspend the accused from office until he shall be tried and acquitted.



SECTION 5. If the committee, or any three of them, shall find that any charge made as aforesaid is well founded, they shall, in their report, so state in specific form, and in such case the court shall cause a certified copy of the whole record, with the specifications of the charges against the accused, to be transmitted to the select council, which shall be assembled within ten days thereafter in special and open session, as a court of impeachment, and the members shall be severally sworn to try and decide the same according to the evidence. A copy of the specification shall be served on the accused, or left at his last place of residence, at least five days before the commencement of the trial, and he shall be entitled to be heard therein in person, or by counsel, and to produce evidence in his defense.

SECTION 6. The president of the said court of common pleas, or, in his absence, an associate law judge thereof, shall preside during the trial, and decide finally all questions of evidence that may arise in the case. He shall have power to issue subpoenas for witnesses, and compel their attendance by attachment, and the production of books, papers, and documentary evidence required or called for by the said court of impeachment, and to punish witnesses and others for contempt, as fully as any court of this Commonwealth may lawfully do, in any case.

SECTION 7. The decision of the court of impeachment shall be entered upon the record of its proceedings, and certified by the clerk to the court in which the complaint was filed. If the accused shall be found guilty on any of the specifications, the said court of common pleas shall enter judgment accordingly, and declare the said office vacant, and if convicted of any other charge than mental incapacity or incompetency, he shall forever thereafter be ineligible to any office of trust, honor, or profit under the city government.

## ARTICLE XVIII.

### FINANCE, REVENUE AND TAXATION.

SECTION 1. Councils shall have the exclusive power to appropriate money for every object of city expenditure. They shall be invested with all the powers in relation to the appropriation and raising of moneys now possessed by any branch or department of the city government.

SECTION 2. No debt incurred by any officer or department shall be binding upon the city, unless an appropriation sufficient to pay the same shall have been previously made.

SECTION 3. No city of this Commonwealth shall have power to borrow any money whatever, except as herein provided.

SECTION 4. In case of a casualty occurring after the annual appropriation ordinance is passed, which necessarily requires an extraordinary expenditure, councils may, by ordinance passed by a vote of three fourths of the members elected to each house, authorize and direct the commissioners of the sinking fund to borrow on behalf of the city the amount required for a period not beyond the close of the next fiscal year, and shall, in the same ordinance, levy a tax sufficient to pay the loan with interest, which tax shall be embraced in the amount to be raised in the next annual tax levy and collected therewith.

SECTION 5. No part of any appropriation shall be transferred to the credit of any other account, and should a balance remain at the end of the fiscal year, such balance shall be covered into the treasury.

SECTION 6. The councils of every city shall have power to levy and col-

lect taxes for municipal purposes annually on all subjects taxable for State and county purposes, except occupations and to levy and collect water rents where water is supplied by the city, and to levy and collect a business tax on the amount of all sales within the city during the year, and issue licenses to all parties doing business in the city. They shall have power in levying taxes to make an equitable allowance in favor of suburban, rural, or agricultural properties.

#### TAX RATE.

SECTION 7. The annual tax rate shall be ascertained and declared as follows:

I. The assessed value of all property, taxable for city purposes, shall be set forth by wards, and aggregated in the appropriation ordinance;

II. The appropriations shall be set forth in detail, and aggregated;

III. From the gross amount of appropriations, there shall be deducted the estimated receipts from all sources, other than direct taxation of property, as well as all special, local, or ward taxation, which estimate shall be based on the actual receipts, from the same sources, of the year preceding where such source existed, subtracting ten per cent. therefrom, and shall include the estimated amount from any new source of receipts.

IV. When the whole amount of revenue, for all purposes, to be raised by direct taxation, including ten per cent. to be added thereto for contingencies, shall have been so ascertained, it shall be divided by the amount of the aggregated assessments of taxable property, and the result shall be the tax rate levied for the ensuing year.

V. The percentage deducted from the sources of revenue, other than direct taxation, or added to the amount to be raised by the annual tax levy for contingencies, may be increased by councils, upon the recommendation of the department of finance.

VI. The fund derived from the ten per cent., estimated for contingencies, shall be first applied to meet deficiencies in collections, and afterwards to special appropriations for unforeseen necessities, and should a balance remain at the end of the fiscal year, the same shall be covered into the treasury.

VII. In cities where there is a district or ward tax or indebtedness, the tax for the district or ward shall be ascertained by substituting the district or ward assessment, and the district or ward appropriations, in like manner.

VIII. Should the quotient in the division herein provided, contain the fraction of a mill, such fraction shall be made a whole mill, and the tax rate increased accordingly.

IX. This section shall not apply to any special tax, which is, or may be levied, in pursuance of a decree of court heretofore made, but the same shall continue to be levied, in pursuance of such decree.

X. In cities where an allowance is made for suburban, rural, or agricultural properties, such allowance shall be made in the valuation of such properties before the tax rate is levied.

SECTION 8. All taxes, rates, and levies, which may be lawfully imposed or assessed on real estate, shall be made payable, by ordinance, to the city treasurer, annually or semi-annually, and if not paid within the time fixed, shall be deemed delinquent, and shall be increased by adding thereto a penalty of one per cent. a month, until fully paid, together with such costs of collection as shall be allowed by ordinance. The treasurer shall prepare a list of the delinquents, in each ward, to be made in alphabetical order, and

shall deliver, for collection, a duplicate thereof to the collector of delinquent taxes, who shall be charged with the whole amount of the same, and shall also file a triplicate list in the office of the city controller.

SECTION 9. The collector shall have power to levy upon and distrain the goods and chattels of the delinquent wherever found, and also upon the goods and chattels of any tenant found on the premises, for any taxes, rates, or levies assessed, together with all penalties, costs, and charges thereon during his occupancy or possession, and to make sale thereof, after five days notice.

SECTION 10. The collector shall make returns of his collections under oath, in duplicate, once a week, and shall deposit one of said returns with the controller, and one with the treasurer, and shall, at the same time, pay the amount of his collections to the treasurer and take duplicate receipts therefor, and deposit with the controller one of said receipts.

SECTION 11. All taxes, rates and levies shall remain liens upon the real estate against which they are assessed until fully paid and satisfied, and shall not be divested by any judicial sale upon any other claim, except to the extent to which distribution shall be made out of the proceeds of such sale, on account of such taxes and levies.

SECTION 12. Water rents shall be paid and collected in the same manner as taxes on real estate.

SECTION 13. Statements of all delinquent taxes, rates, and levies, with the name of the person assessed, and the amount due, shall be advertised in the official paper of the city once a week, for two weeks previous to the filing of the liens, and the expense of such advertising shall be added to the amount of the lien and be part thereof.

SECTION 14. The duplicate of delinquent taxes shall be returned by the collector to the controller on or before the third Monday in April of the year succeeding his receipt of the same, and the controller shall deliver a statement of all taxes, rates, and levies then remaining unpaid to the city solicitor, who shall file liens therefor, and proceed to sell the real estate assessed by writ of *levari facias*, as in other cases of municipal liens. A sale upon such lien shall vest a good title in the purchaser, whether the real owner of the premises be named or not. The owner of any property so sold may redeem the same within two years, on petition to and decree of the court of common pleas, and payment to the purchaser of the amount of the bid, the interest thereon, and ten per cent. additional, and all necessary expenses incurred by the purchaser in the maintenance and repair of the property, and all taxes and municipal claims paid thereon. Any judgment creditor, or mortgagee may redeem, in the name of the owner, the property so sold, upon the terms and conditions provided for redemption by the owner. In such case the liens of all judgments and mortgages existing at the date of the tax sale shall be re-instated in their order, but the creditor redeeming shall have the first lien for the amount expended in such redemption.

SECTION 15. Where the amount of taxes, rates, and levies due shall not exceed twenty dollars, the real estate shall not be exposed to sale on the tax lien for one year after the filing of such lien.

SECTION 16. In all sales of real estate for taxes, rates, and levies, the city solicitor is authorized to bid, on behalf of the city, a sum sufficient to pay the city's claims therefor, due and unpaid, and, in case of purchase, the property shall be subject to redemption as in other cases, and the city shall not be liable for the payment of the sheriff's or prothonotary's costs, until the claim of the city, and the said costs, shall be realized out of the real estate so bought in and held for the use of the city. In cases of sale, the collect-



or in office at the time the lien is filed shall be entitled to such portion of the costs collected as may be allowed by ordinance.

SECTION 17. The controller, treasurer, and solicitor shall constitute a board to audit the accounts of the collector of delinquent taxes, and no exoneration shall be allowed to him until he shall have first filed with the treasurer and controller duplicate statements, under oath, showing exonerations claimed, and the grounds thereof, and such statement shall be examined and acted on by the board, and each exoneration allowed or disallowed, and said board shall have power to examine him under oath, and a record of their proceedings shall be made and filed in the office of the city solicitor.

SECTION 18. In cities of the third, fourth, and fifth classes, councils may dispense with the office of collector of delinquent taxes, and in such cities taxes, rates, and levies shall be collected by such officers as may be designated by ordinance.

SECTION 19. The fiscal year in cities shall begin on the first day of January in each year.

## ARTICLE XIX.

### CONTRACTS.

SECTION 1. All work, stationery, printing, materials, and supplies, other than official advertising required by the city, exceeding in any instance fifty dollars in cost or value, shall be done or furnished under contract, to be given to the lowest responsible bidder, under such regulations as may be prescribed by ordinance.

SECTION 2. All contracts exceeding two hundred and fifty dollars in cost or value, shall be let or entered into only after proposals therefor shall have been invited, by advertisement in the official newspaper, under such regulations as may be prescribed by ordinance.

SECTION 3. All bids or proposals shall be accompanied with security, and shall be publicly opened by the officer in charge of the subject matter of the contract, at twelve o'clock meridian of the day limited for their reception, in the presence of the controller and the city solicitor, and the city solicitor shall see, in all cases before the contract be awarded, that the security offered is adequate and sufficient.

SECTION 4. No contract shall be awarded to any person who is in arrears to the city under any prior contract, or who is a defaulter under any obligation to the city.

SECTION 5. All contracts relating to city affairs shall be in writing, signed and executed in the name of the city, by the officer authorized to make the same, after due notice; and in cases not otherwise directed by law or ordinance, such contracts shall be made and entered into by the mayor. No contract shall be entered into or executed directly by the city councils or their committees, but some officer shall be designated by ordinance to enter into and execute the same. All contracts shall be countersigned by the controller, and filed and registered by number, date, and contents in the mayor's office, and attested copies furnished to the controller and to the department charged with the work.

SECTION 6. Every contract for public improvements shall be based upon an estimate of the whole cost, furnished by the proper officer through the department having charge of the improvement, and no bid in excess of such estimate shall be accepted. Every such contract shall contain a clause that it is subject to the provisions of this act, and the liability of the city

thereon shall be limited by the amounts which shall have been or may be from time to time appropriated for the same.

Such contracts may be suspended for want of means, or other substantial cause, with the approval of the mayor, without cost to or liability on the part of the city.

SECTION 7. Every contract made by or on behalf of the city, shall be subject to the right and authority of the mayor to supervise the performance of the same, and to suspend the execution thereof, for the purpose of investigation, whether such contract expressly reserves the right so to do, or not.

SECTION 8. On the complaint of any citizen and tax payer, that public work is being done contrary to contract, or the work, or material used, is imperfect, or different from what was stipulated to be furnished, or done, the mayor may appoint three reputable citizens, acquainted with the subject matter, to examine, and report on the work, or material, and if it shall be found that the contract has been violated by the contractor, the mayor shall have power to annul the same, subject to revision by proceedings in equity, upon application by the party aggrieved.

SECTION 9. The court of common pleas of the proper county, shall have power to restrain, by injunction, the execution or performance of any contract in which the city is concerned, and cancel the same on bill, filed by any five freeholders, charging fraud in the making, execution, or performance thereof, and the proceedings in such case, shall conform to the practice and rules of courts of equity in this Commonwealth.

SECTION 10. No councilman, officer, or employé of the city, shall be directly, or indirectly interested in any contract, or work, the cost or consideration of which is payable from the city treasury, or by any assessment levied by ordinance, nor in the sale, purchase, or lease, to or from the city, of any real estate, or other property. If any councilman, officer, or employé, shall be so interested at the time of his election, or appointment, or shall, during the term for which he shall have been elected, or appointed, knowingly acquire an interest in any such contract, he shall forfeit his office.

SECTION 11. In all contracts for improvements, the cost of which is to be paid by assessments upon the property abutting, or benefited, the city shall not be liable to any claim for the amount to be collected from such assessments, but the contractor shall look to the assessment for his compensation.

SECTION 12. The contract for the official advertising shall be entered into as follows: The controller shall, annually, after ten days' notice by advertisement, receive scaled bids from publishers of newspapers, to do the city advertising for one year, and until another publisher is duly selected, and, on a day named, shall open the same, and, having regard to the character and standing of the said newspapers, respectively, award the advertising to the lowest responsible bidder, and transmit to councils such bids and awards. If the award be confirmed by joint resolution, the controller shall make the contract, and in case of refusal to confirm, the controller shall repeat the proceedings herein required, until confirmation.

## ARTICLE XX.

### STREETS AND OTHER IMPROVEMENTS.

SECTION 1. In opening, widening, straightening, or extending streets, or other highways, the value of the property taken, or damages done to prop-

erty thereby, shall be levied and collected upon the several properties benefited by such improvement, in the manner hereinafter provided.

SECTION 2. Every city shall have a general plan of its streets, including those which have been, or may be laid out, but not opened, and all subdivisions of property, thereafter made, shall conform thereto. No street, laid out and confirmed, shall afterwards be altered, without the consent of councils, and no map or plot of streets shall be entered of record, or have any validity, until approved by councils.

SECTION 3. No street shall be opened, widened, graded, or paved, except on petition to the Department of Public Works, signed by owners of property representing a majority of the feet abutting thereon, and no ordinance shall be passed by councils, authorizing such opening, grading, or paving, unless recommended by the said department.

SECTION 4. When the opening or widening of any street is duly authorized, it shall be the duty of the city solicitor to apply, by petition, to any court of common pleas of the proper county, for the appointment of viewers, to appraise the damages, and assess the benefits accruing therefrom, in each case, and the court shall, thereupon, appoint three disinterested and well qualified freeholders, for that purpose.

SECTION 5. The said viewers shall, before entering upon their duties, be severally sworn or affirmed to perform the duties of their appointment with impartiality and fidelity. They shall

I. Give such notice as may be directed by the court of the time and place, when and where they will meet and view the premises, and receive claims for damages, and also of the time and place when they will hear evidence on the subject of benefits and damages.

II. They shall have power to administer oaths and affirmations to witnesses whom they may examine.

III. Make a true and reasonable appraisal of the damages, taking into consideration the advantages and benefits, as well as disadvantages, which any owner or owners will sustain by reason of the proposed improvement.

IV. Assess the damages so ascertained equitably and justly upon the properties to be benefited by the improvement.

V. Prepare a plot of the proposed improvement, indicating its location, and the location, boundaries and improvements of each property damaged or benefited, with the name of the owners respectively.

VI. Prepare a statement, showing the amount of damage allowed, and the assessment of benefits made in each case.

VII. Give ten days' notice to the owner of each property of a time and place, when and where said plot and statement may be examined, and complaints or evidence on the subject heard.

VIII. Hear and consider complaints and evidence presented, at the time and place appointed, and after making such modifications, if any, as they may deem just, make report to the Department of Public Works, accompanied by the plot aforesaid, stating the damages allowed in each case, and to whom payable, and also describing each property assessed, the amount assessed thereon, and the name of the owner.

SECTION 6. The Department of Public Works shall hear appeals by any party aggrieved by the report of the viewers, and shall have power to approve the report, to send the same back for further action, or quash the proceedings.

SECTION 7. When the report of viewers is approved by the department, such approval shall be final, unless within ten days thereafter a person interested shall present a petition to the court of common pleas, by whom



the viewers were appointed, setting forth the facts, and that injustice has been done to the petitioner by the report. The department shall, upon notice of the filing of said petition, certify to the court all the papers and proceedings in the case, and thereupon the court shall take such action in the premises as they may deem right and proper, and shall have power to hear evidence, and modify or approve the report, or quash the proceedings, or appoint reviewers, who shall proceed in like manner, and the court shall have like power to modify, approve, or quash their report.

SECTION 8. The amount of damages shall, in all cases, be determined by jury, according to the course of the common law, upon the demand of any party interested, but such demand shall be made within twenty days after the filing of the original report, and the demandant shall file a bond, with surety, to be approved by the court, to prosecute the appeal with effect. In case the demandant shall not obtain, by verdict of the jury, a more favorable award, he shall pay all the costs of the appeal, and in case the awards, as fixed by the jury, differ from the original report of the viewers, the court shall make the changes necessary to conform thereto. The court shall have authority to consolidate pending appeals, relating to any one proceeding, and make such order therein for speedy trial as it may deem advisable.

SECTION 9. The damages, cost, and expense of grading, paving, or macadamizing streets or alleys, shall be assessed and collected in the following manner:

The department, or officer having charge of the subject matter, shall present a petition to the court of common pleas of the proper county, stating the facts, whereupon said court shall appoint three disinterested and well qualified freeholders, who shall appraise the damages, and assess the same, together with the cost and expense of the improvement, as follows:

I. They shall first inquire whether the property abutting upon the improvement is benefited to the extent of the cost of the improvement and the damages resulting therefrom, and if they shall so find, they shall assess the same justly and equitably according to the benefits upon each lot, piece, or parcel of land, fronting and abutting upon the improvement. No property, however, shall be assessed a sum amounting to more than twenty-five per cent. of its value, as assessed for purposes of city taxation.

II. In case the property abutting upon said improvement is not benefited according to the above limitation to the extent of the cost and damage, said viewers shall assess the excess upon any other lots, pieces, or parcels of land in the vicinity of the improvement, and benefited thereby, subject to the same limitation and in like manner.

The proceedings of the said viewers and the action on their report shall be the same as is hereinbefore provided in the case of street openings.

SECTION 10. Should any assessment for opening, widening, grading, or paving, be found insufficient, or declared invalid, an additional or new assessment may be ordered by councils, as in other cases.

SECTION 11. Councils may, upon the recommendation of the Department of Public Works, authorize the construction of sewers in any street, alley, public ground, or private property, the cost of which shall be assessed as follows:

The councils shall adopt, by ordinance, one of the following plans:

- I. The cost may be provided for by general taxation; or,
- II. The cost may be assessed on the property benefited, in the same manner as hereinbefore provided for the opening of streets, or
- III. Sewers may be divided into two classes, lateral and main. The

cost of lateral sewers shall be assessed on the property abutting, by an equal assessment, upon the foot front, and a reasonable proportion of the cost of main sewers upon the property abutting, by an equal assessment, upon the foot front, the amount of which shall be fixed by ordinance, and the balance shall be provided for by general taxation.

In case it may be necessary to construct sewers through private property, councils may provide therefore, and the damages to the property owner, after deducting his benefits, shall be ascertained in the same manner as hereinbefore provided for street openings, and the amount of the damages remaining, shall be included as a part of the cost of the same, and paid accordingly; or,

IV. Councils may establish sewer districts, and provide, by ordinance, for the assessment of the cost of constructing sewers therein.

SECTION 12. All municipal assessments, for improvements, shall be filed in the office of the city treasurer, for collection, who shall cause sixty days' notice to be given to each party assessed, either by service on the owner, or left upon the assessed premises, that the assessments are due and payable, together with interest, from the completion of the improvement. If not paid within that time, the delinquent assessments shall be, by the controller, placed in the hands of the city solicitor for collection, and said solicitor shall proceed to collect the same, together with five per cent. additional, and interest, from the completion of the improvement, by municipal claim, filed against the delinquent owner, describing the premises upon which writs of *scire facias* may issue. When an owner has two or more lots, against which there is an assessment for the same improvement, all of said lots shall be embraced in one claim.

SECTION 13. The term "owner" shall be construed to mean all individuals, corporations, public or private, and associations having any title or interest in the property appraised or assessed, and in case of leaseholds or different estates in the same property, the viewers shall have power to apportion the damages or assessments among the different owners, or between the lessors and lessees, and report how much each one shall receive or pay.

SECTION 14. If the owner to whom any notice required to be given by this act, is a non-resident of the city, and his place of residence is unknown, or if the ownership of the property cannot be ascertained, the notice shall be posted on the premises, and a copy left with the occupant if there be one.

SECTION 15. The assessments shall be the first liens upon the properties assessed, and shall, if filed within six months after the final confirmation of the assessments, continue liens until paid and satisfied, and may be revived as other liens, and shall not be divested by any judicial or other sale, except to the extent to which distribution shall be made out of the proceeds of such sale.

SECTION 16. Every claim filed shall be a plain statement, in which the corporate name of the city shall be used as plaintiff and the owner or owners named as defendants, and shall contain a description of the property or properties against which it is filed, the nature and kind of work done, and time when the same was completed, and the date of the ordinance or ordinances under which the work was instituted.

SECTION 17. No mistake in the name of the owner shall vitiate the claim, but the court shall have power at any time, on motion, to correct mistakes of description and add to or strike out names as defendants. Any owner whose name shall be added as defendant after the filing of the claim, shall be served with a *scire facias* before judgment shall be entered against him.



A sale on a *levari facias* shall convey only the interests of those who are named as defendants in the writ, but a judgment or sale against a reputed owner, or one having a limited estate or interest, shall not prevent a subsequent judgment or sale against the true owner.

Where the defendant in any writ of *scire facias* shall be a corporation, and the property assessed cannot be sold, the *scire facias* shall be proceeded upon to judgment, and a writ of *ficri facias* shall be issued thereon, by virtue of which any personal property of the corporation, wherever situate, may be levied on and sold, or an attachment in execution may be issued, as in other cases.

SECTION 18. When a claim shall be filed and *scire facias* issued upon any assessment, it shall not be necessary to file an affidavit of claim, but the defendant may file an affidavit of defense. Judgment may be entered in default of appearance, or sufficient affidavit of defense at any time after the return day, and ten days' service of the writ, or upon two *nihilis*, and all matters necessary to support the claim not denied in the affidavit of defense shall be taken as admitted on the trial.

SECTION 19. When the ownership of a lot is unknown, the claim shall be filed against "Unknown Owner," and indexed accordingly. A *scire facias* may issue thereon in like manner as on other claims, notice of which shall be published by the sheriff in the official newspaper of the city, once a week, for two weeks, with a full description of the lot, the amount assessed thereon, and for what purpose the assessment was made, and the lot may be sold on *levari facias* in the same manner and with the same effect, as if the real owner had been named.

SECTION 20. In case any property be sold in the name of "Unknown Owner," for any municipal claim, the real owner may, within two years, redeem the property upon payment to the purchaser or his heirs or assigns, of the amount of the bid, with interest, and ten per cent. additional, and all municipal claims and taxes paid upon the premises after the sale. Any judgment creditor or mortgagee may redeem, in the name of the real owner, the property so sold under the terms and conditions provided for redemption by the owner. In such case, the liens of all judgments and mortgages existing at the date of the sale shall be reinstated in their order, but the creditor redeeming shall have the first lien for the amount expended in such redemption.

SECTION 21. Viewers shall each receive such per diem compensation for every day necessarily employed in the discharge of their duties as councils may by ordinance prescribe, which, with all other necessary expenses connected with their proceedings, shall be added to the damages and cost of the improvement, and assessed and collected in like manner for the use of the city.

SECTION 22. When a petition is presented for the re-grading or re-paving of any street or other highway, or part thereof, and the cost of the original grading or paving was paid by the property owners, councils shall refer the petition to the Department of Public Works, which shall appoint viewers to inquire and report to said department whether the improvement is of local or general benefit, and if they report that it is in whole, or in part, of local benefit, they shall designate the district to be benefitted thereby, and the proportion to be paid by such district.

SECTION 23. On the recommendation of the Department of Public Works founded upon the report of the viewers, councils shall have power to provide by ordinance for the re-grading or re-paving of said streets or highways or parts thereof, and the cost and expense thereof shall be assessed and collected in accordance with such report.



SECTION 24. When an ordinance for the re-grading or re-paving of any street or highway or part thereof shall have been passed by councils, an appeal may be taken, by any party aggrieved, from the action of councils in determining the proportion to be paid by the property owners, if any, within ten days, to the court of common pleas of the proper county, and the said court shall review the same upon exceptions, which shall be filed with the appeal. All action under the ordinance shall be suspended until the final order of court thereon, and such court shall have power to direct such modifications of the action of councils in determining such proportion, as may be just and proper. Should the same be changed or modified, the ordinance shall be of no effect unless reënacted, changing the proportion of cost, in accordance with the order of court.

SECTION 25. Whenever any street, or other highway, or part thereof, shall have been re-graded or re-paved, under an ordinance directing a local assessment therefor, the proportion of the cost and expense thereof, which may be ordered to be paid by local assessment, shall be assessed by viewers, to be appointed by the board of public works, upon the properties in the district designated, in proportion to the benefits to said properties, respectively, in the same manner, and subject to the same regulations relating to the assessment of damages caused by the opening of streets, so far as applicable.

SECTION 26. The foregoing provisions for re-grading and re-paving streets, upon petition presented, and at the cost of property owners, shall not prevent councils from re-grading and re-paving streets or highways, at the general expense, when they may deem it expedient so to do.

SECTION 27. Owners of property shall pave and curb the sidewalks with such materials, and keep the same in repair, under such regulations as may be prescribed by ordinance.

SECTION 28. Upon the failure of any owner to pave or curb the sidewalks, in front of the property of such owner, within twenty days after receiving notice from the proper authority, so to do, the same may be done by the city, and the expense thereof, together with interest and costs, shall be a lien on the premises, for which a claim may be filed and collected, as other claims under the provisions of this act.

SECTION 29. Petitions for the opening, grading, or paving of any street or highway, shall be accompanied by an affidavit of two or more of the signers thereof, setting forth that the names attached thereto are the genuine signatures of the persons represented; that they are owners of property on said street or highway, or portion thereof, to be opened, graded, or paved, and that the signers thereof own a majority of the feet front of the property abutting thereon. The fact that said petition was so signed shall not be questioned in any subsequent proceeding.

SECTION 30. In all cases of opening, grading, or paving of streets, councils may discontinue proceedings at any time before actual entry upon the property.

SECTION 31. The functions assigned by this act to the department of public works, shall be done, and performed in cities, where no such department may be established, by such officers as may be designated by ordinance, and with like force and effect, and under the same rules and regulations, as are herein provided in reference to the department of public works.

## ARTICLE XXI.

## WARDS.

SECTION 1. Wards may be divided, or new wards created, by ordinance of councils, on petition, accompanied with a plot, describing the boundaries of the proposed new ward, and contiguous wards out of which it is proposed to be formed.

SECTION 2. In creating a new ward, the number of taxables of the city shall be divided by the number of wards, including the proposed new ward, and the quotient shall be the ratio of taxables for such new ward, and for the remaining part of the ward, or wards out of which it is taken, and no new ward shall be created, unless it and the ward, or wards out of which it is formed, each contain at least such ratio of taxables after division.

SECTION 3. Wards may be consolidated by ordinance of council.

## ARTICLE XXII.

## ANNEXATION.

SECTION 1. A borough, or township, or part of a township, may be annexed to any adjacent city, in the following manner, viz:

In the case of a borough, the council thereof may pass an ordinance for such annexation, on petition, signed by three fifths of the taxables of such borough.

In the case of a township, or part of a township, when three fifths of the taxables thereof shall present a petition to the councils of the city, praying for such annexation, which petition shall be accompanied by a draft of the territory proposed to be annexed.

SECTION 2. On presentation of such petition, or a certified copy of such ordinance, to the councils of the city, notice thereof shall be given, by publication, once a week, for two weeks, in the official newspaper of the city, and by handbills posted in the district or borough proposed to be annexed, and after such notice, such borough, township, or part of a township, may be annexed by ordinance, to the said city, and shall thereafter be a part thereof.

SECTION 3. The action of the city councils in such case shall be final, unless an appeal therefrom be taken by at least fifteen freeholders of the district, borough, or city, within ten days after the approval of the ordinance, to the court of common pleas of the proper county, and upon such appeal, the clerks of the city councils shall certify to the court all the papers and proceedings, whereupon it shall be the duty of the court to examine said proceedings, and if the court shall find the same to have been regularly and lawfully conducted, the action of councils shall be affirmed.

## ARTICLE XXIII.

## EXCEPTIONS APPLYING TO CITIES OF THE THIRD, FOURTH AND FIFTH CLASSES.

SECTION 1. In cities of the fourth and fifth classes, councils may provide, by ordinance, for representation in select council, by dividing the whole number of taxables by the whole number of wards, for a ratio. Each ward shall be entitled to a member for each ratio, and an additional one for each fraction exceeding three fifths of a ratio. Should a ward not

contain more than three fifths of a ratio, or more than three hundred taxables, it shall be attached to one or more adjacent wards for representation.

SECTION 2. In cities of the fourth and fifth classes, councils may regulate their sessions by ordinance.

SECTION 3. In cities of the fifth class, the printing required by Sections two, six, and seven, of Article IV, may be dispensed with if, by general ordinance, the councils shall so determine.

SECTION 4. Articles VI, VII, VIII, X, XII, XIII, XIV, shall only apply to cities of the fourth and fifth classes, as far as the same, or parts thereof, may be adopted by ordinance, and where the departments are created by this act are not adopted in whole or in part, councils shall provide, by ordinance, for the performance of the necessary duties appertaining to the same.

SECTION 5. Section twelve, of article XXIV, shall not apply to cities of the fifth class, unless adopted by ordinance.

SECTION 6. Article VIII shall not apply to cities of the third class, unless adopted by ordinance.

SECTION 7. The functions of the department of public safety may, in cities of the third class, be exercised by such officers as shall be designated or created by ordinance. All subordinate officers and employes of the department,—except police officers, who shall be appointed by the mayor,—shall be appointed by the department, subject to confirmation by select council.

SECTION 8. Whenever, in cities of the third, fourth, or fifth class, an ordinance is passed by councils adopting any provision of this act from which they are excepted by this article, and which they are authorized to adopt, a certified copy of such ordinance shall be filed in the office of the Secretary of the Commonwealth, and published in the appendix to the next ensuing volume of the pamphlet laws.

## ARTICLE XXIV.

### GENERAL PROVISIONS.

SECTION 1. Every person who shall promise, offer or give to a candidate for a municipal office, or to any city officer, any money or thing of value, with intent corruptly to influence his official action in any matter, shall be guilty of bribery.

SECTION 2. If any officer of a city, or any person in the service of a city, shall corruptly accept any gift made for the purpose of influencing his official action, he shall be guilty of bribery.

SECTION 3. Any person convicted of bribery under the provisions of this act, shall be punished by a fine not exceeding one thousand dollars, and imprisonment for a period not exceeding two years, and shall be forever incapable of holding any office of trust, honor, or profit in this Commonwealth.

SECTION 4. No witness shall be excused from testifying in any criminal proceeding, or in any investigation or inquiry before either branch of the councils, or any committee thereof, or any officer of the city having the right to conduct the investigation, touching his knowledge of any offense committed against the provisions of this act. But such testimony shall not be used against him in any criminal prosecution whatever, and the accused shall not be convicted in any court on the testimony of an accomplice, unless the same be corroborated by other evidence, or the circumstances of the case.



SECTION 5. Any person who shall wilfully swear falsely in any oath or affirmation, authorized or required by this act, shall be guilty of perjury.

SECTION 6. Any person holding office, whether by election or appointment, under a city government, who shall, during his term of office, accept or retain any other civil office of emolument under the government of the United States, the State, or the city, shall be deemed thereby to have vacated his city office. No person shall hold more than one office in a city government at the same time, nor shall an officer of the city hold an office under the county government, except when he holds such office ex officio.

SECTION 7. All officers of a city shall reside within its limits, otherwise their offices shall be vacated.

SECTION 8. Councils shall establish, by general ordinance, the salary of each officer of the city, and the amount of the official bond, with the surety thereon, and by whom the same shall be approved, and where the boundaries of a city embrace the entire county, shall prescribe the compensation of all county officers, and their clerks or employés, whose salaries are paid out of the city treasury.

SECTION 9. The salaries of officers shall not be increased or diminished, after they shall have been elected or appointed.

SECTION 10. No person shall be disqualified from acting as a judge, justice, or juror in any action or proceeding in which the city is interested, by reason of being an inhabitant or taxpayer in the city.

SECTION 11. Judgments recovered against, and payable by the city, and remaining unpaid with the interest due, and to become due thereon, shall be reported to the councils, by the city solicitor, at their first session after the same shall become payable, and if there shall be no funds in the treasury provided for, and applicable to the payment thereof, the amount shall be raised in the next levy of taxes. Such judgments shall be paid in the order of their priority, out of the first moneys paid into the city treasury on account thereof, by reason of such levy, but if there be any moneys in the treasury not otherwise appropriated, councils shall direct the payment therefrom of the judgments in the order of their priority, and the plaintiffs, in such judgments shall have the right to enforce compliance with the provisions hereof by mandamus or other proper process, but shall not have the right to collect or compel the payment of any such judgments in any other manner, or out of any other funds of the city.

SECTION 12. Councils shall provide for a registry of all the real estate in the city, showing the location and dimensions of each property and the owners thereof, and each subsequent sub-division or change of ownership.

SECTION 13. When such registry is provided for, it shall be the duty of owners of real estate, to make report thereof to such officer, as may be designated, giving the precise dimensions and locality of the premises, and producing the instrument under which title is claimed, or a certified copy thereof. No deed for real estate within the limits of the city shall be recorded, unless first delivered to the proper officer, and registered by him, and upon any final decree for the partition of such property, a description of the purparts, and the names of the parties taking thereunder, shall be transmitted to the proper officer for registry.

SECTION 14. Councils may provide for the enforcement of the provisions for the establishment of the registry, by imposing fines and penalties for non-compliance therewith.

SECTION 15. In cities of the first class, there shall be a Board of Harbor Commissioners, consisting of five persons, to be appointed, from time to

time, by the mayor, on the recommendation of the executive council of the board of trade, all of whom shall serve without compensation.

SECTION 16. This board shall perform all the duties, and exercise all the powers imposed and conferred by law on port wardens, and the office of port warden is hereby abolished in such cities.

SECTION 17. In addition to the powers now conferred by law on port wardens, the Board of Harbor Commissioners shall have authority to regulate the use of wharves by steam vessels running in regular lines between such cities and other ports, foreign or domestic, and by other vessels, in such manner, however, as not to interfere with the rights of the owners of wharf property, and under proper penalties to be prescribed by them; and the harbor master shall enforce such regulations.

SECTION 18. Existing laws and ordinances not inconsistent herewith regulating the use of the docks and wharves shall remain in force, and penalties for violations thereof, and such as may hereafter be prescribed by ordinance or the rules of the board, shall be enforced as now, or hereafter provided by law or ordinance, or by the rules of the board.

SECTION 19. The commissioners of the sinking fund and directors of the department of education shall serve without pay.

SECTION 20. All ordinances shall be published in the official newspaper of the city, within fifteen days after their approval, and also recorded in a book, to be provided for that purpose in the office of the mayor.

SECTION 21. All ordinances and resolutions of the city may be proved by the seal of the corporation, attested by the proper officer, and when printed and published by authority of the corporation, the same shall be received in evidence in all courts and places without further proof.

SECTION 22. The corporate powers, and the provisions for the government of cities now in existence by virtue of the laws of the Commonwealth, shall be and remain as now provided by law, except where they may be repealed or superseded by this act, or may be inconsistent therewith, and all acts inconsistent with this act shall be and the same are hereby repealed.

## ARTICLE XXV.

### SURRENDER OF CORPORATE RIGHTS.

SECTION 1. Any city containing not more than fifteen thousand inhabitants may surrender its corporate rights as a city, and be reduced to a borough, in the following manner, to wit: On petition of one hundred electors of the city, an ordinance may be passed submitting to the qualified voters of the city, at a special election to be held for that purpose, the question whether the city government shall be continued as such or the city converted into a borough. Should the majority of votes be in favor of such change, the returns of the election shall be certified by the officers of the election to the court of common pleas of the proper county, as in other cases, and the court shall thereupon make a decree annulling the corporate rights of such city, and shall further decree that the territory embraced therein be incorporated into a borough under the general borough laws of this Commonwealth.

SECTION 2. The election prescribed in the preceding section shall be held and conducted as other elections are now by law conducted.

SECTION 3. The surrender of corporate rights shall not be held to affect rights accrued or liabilities incurred by any such corporation, but the new corporation shall succeed to all the rights, and be subject to all the liabilities of the former corporation, for the purpose of winding up its affairs.



## SCHEDULE.

SECTION 1. The first elections under this act, shall be held on the third Tuesday of February, happening not within thirty days after the date of the approval thereof.

SECTION 2. It shall be the duty of the persons elected to councils at the first election under this act to assemble in their respective chambers on the first Monday of April following their election at twelve o'clock, meridian, and thereupon each council shall organize by electing one of its number as president, and after the members are sworn, such other officers as may be necessary, and said councils shall thereafter be the councils of the city.

SECTION 3. At the first election under this act members of select council and of the Department of Education shall be elected one third to serve for one year, one third to serve for two years, and one third to serve for three years.

SECTION 4. The first apportionment for members of common council shall be made as soon as possible after the approval of this act, and until such apportionment is made, members of common council shall be elected in the manner now provided by law.

SECTION 5. At the first election by councils for directors of the Board of Charities and Correction under this act, the common council shall elect one director to serve for the term of one year, and one for three years, and the select council shall elect one to serve for the term of two years, and one for four years, and at the expiration of the one year term, and every alternate year thereafter, the common council shall elect one director to serve for four years. At the expiration of the said term of two years, and every alternate year thereafter, the select council shall elect one director to serve for four years.

SECTION 6. For the purpose of enacting legislation to properly carry out the provisions of this act, the councils first elected thereunder, may continue in session, and by adjournment from time to time, as long as may be necessary, not exceeding one year, and it shall be their duty, as soon as conveniently may be, to enact ordinances providing for the reorganization of the several departments of the city, so as to conform to the requirements of this act. All executive powers and duties of the several officers of the city, not hereinbefore otherwise distributed, shall be assigned to the appropriate department hereby created, or bureau authorized by this act, and when so assigned, all departments, bureaus, and offices now existing, shall be abolished.

SECTION 7. In order to increase efficiency and promote economy, it shall be the duty of councils to abolish any office not retained by this act, and transfer its duties to another, as they may deem expedient.

SECTION 8. Every person who shall be connected with, or employed by,

The Police Department;

The Fire Department, except the Fire Commissioners;

The Board of Health, except the members of the Board of Health;

The Guardians of the Poor, except the members of the Board of Guardians of the Poor;

On the passage of this act, shall be transferred, by operation hereof, to the appropriate department, hereby created, and shall receive the same salary or compensation now paid, until the same be altered by councils.

SECTION 9. The provisions of section nine, of article IX, relative to the ineligibility of city treasurers to re-appointment, shall not apply to any treasurer now in office, or already elected thereto.



SECTION 10. All salaried officers, whose offices are not abolished by this act, shall serve out the several terms for which they were respectively elected, and shall receive the same salary, fees, and emoluments to which they were severally entitled, before the passage of this act.

SECTION 11. All boards, officers, or employes not hereby abolished, superseded, or dispensed with shall continue to exercise their functions and duties until changed by law or ordinance duly passed, but they shall be attached to the department to which the property, interests, and duties confided to them respectively shall be assigned by the provisions hereof.

SECTION 12. In cities of the first class the chief engineer of the water department, the commissioner of highways, the commissioner of city property, and chief engineer and surveyor shall continue in office until the expiration of their several terms, and be transferred by operation hereof to the proper bureaus of the Department of Public Works hereinbefore created, and shall receive the same salary and compensation as at present, until the expiration of their respective terms.

SECTION 13. The present commissioner of highways in cities of the first-class shall be the head of the Department of Public Works until the expiration of his term, and in cities of the second class the present board of street viewers shall be the board of public works, until the expiration of their respective terms.

SECTION 14. The present receivers of taxes shall continue in office during the terms for which they were respectively elected or appointed, and in cities of the first class shall appoint the collector of delinquent taxes, on the expiration of the term of the present collector of delinquent taxes, and such appointee shall, during the term of his appointment, receive the same fees and emoluments to which he would have been entitled had this act not been passed.

SECTION 15. The present collectors of delinquent taxes in cities of the first class and their immediate successors, and the present collectors of delinquent taxes in cities of the second class, shall, until the expiration of their respective terms, and until their successors are elected or appointed, have the same powers as are now provided by law, in relation to their respective offices.

SECTION 16. The office of receiver of taxes in cities of the first class is abolished from and after the expiration of the term of the present incumbent.

SECTION 17. The city clerk and assistant clerk in cities of the second class shall serve out their respective terms.

SECTION 18. The time for the payment of taxes shall remain as at present until changed by ordinance.

SECTION 19. The controllers and treasurers of the several cities, already elected or appointed, shall continue in office, until the expiration of their respective terms.

SECTION 20. The provisions of this act, in relation to the Sinking Fund Commission shall not apply to sinking funds for railroad compromise indebtedness in cities of the second class.

SECTION 21. The first appointment of officers to be made, under the provisions of this act, whose appointments are conferred upon mayors now in office, and not elected, in contemplation of the exercise of the appointing power, shall be made by a board, consisting of the mayor and presidents of the two branches of councils, subject to the confirmation of the select council.

SECTION 22. Nothing contained in this act shall be construed to inter-

fere with the present constitution of the gas trust or other trusts in cities of the first class.

SECTION 23. In cities of the first class, the offices of district surveyors and commissioners for the erection of public buildings, are hereby abolished.

SECTION 24. In cities of the second and third classes, where any street, or other highway, has been heretofore improved in any city, and the cost and expense thereof has not been collected, or liens filed, and also in all cases where the act or acts, under which the same have been improved have been, or shall be, declared unconstitutional, on account of the assessments being made by the frontage rule, and because of the proportion assessed on rural or suburban properties, the cost and expense of the same shall be assessed and collected in the same manner as herein provided for grading and paving streets, and with the same lien. Payments upon account of such streets or highways already made, shall be credited on any new assessment made under the provisions hereof.

SECTION 25. Assessments for streets constructed or in process of construction, or for which contracts have been made and assessments uncollected, except as otherwise provided in this schedule, shall be finished, and the cost and expense thereof collected under the existing laws in the several cities.

SECTION 26. In order that cities may be able to carry into effect the provisions of this act, and their finances not be deranged by existing debts, the councils are authorized to fund so much thereof, as they may deem advisable, and to issue bonds therefor, payable within thirty years, at a rate of interest not exceeding six per centum per annum, and to provide for the payment of the same, in the manner required by law. The bonds issued therefor shall be placed under the control of the Commissioners of the Sinking Fund, whose duty it shall be to sell the same, at not less than par, and apply the proceeds to the payment of the existing indebtedness, in such manner as may be directed by councils.

SECTION 27. The councils of existing cities shall, within one year from the approval of this act, designate by ordinance, such of the special acts of Assembly, or parts thereof in force, and not inconsistent herewith, as they severally desire to retain in their respective cities, and all acts not so designated, shall be, and the same are hereby repealed, from and after the approval of such ordinance.

SECTION 28. Such ordinance shall be presented to councils, and a time fixed for its consideration, at least two weeks thereafter, and be published at least one week in the official newspaper of the city. The action of the several cities in regard thereto, shall be reported to the next General Assembly, and shall be inserted in an appendix to the pamphlet laws.

SECTION 29. No right or interest which has become vested under any special act of Assembly, shall be impaired by the exercise of any power under this act.





MINORITY REPORT  
OF THE  
COMMISSION TO DEVISE A PLAN  
FOR THE  
GOVERNMENT OF CITIES OF THE STATE OF PENNSYLVANIA.

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*To the Honorable the Senate and House of Representatives of the Commonwealth of Pennsylvania :*

The undersigned, member of the Commission appointed by the Governor of this Commonwealth, pursuant to an act of Assembly, approved May 5, Anno Domini 1876, entitled "An act authorizing the Governor to appoint a Commission to devise a plan or plans for the government of the cities of this Commonwealth," respectfully submits the following report :

I agree with the majority of the Commission, in many of the conclusions reached by them, but I dissent from a part of their final report, and cannot recommend to your honorable bodies the adoption of the constitutional amendments proposed, or the enactment of the bill accompanying their report. The bill is objectionable to me in many of its provisions, and I will simply call to your attention a few of the reasons why I think it should not become a law in its present form :

1. The twenty-three cities of the State are divided by it into five classes, in such a manner that the first three classes each contains but a single city, and the other twenty cities are embraced in two classes. I do not think that it can be successfully shown that there is such a difference in the population, wealth, business, and situations of these cities as to justify the formation of so many classes composed of a single city each, and then unite so many others in one class. No good reason can be given why Pittsburg and Allegheny should not be placed in the same class, or why Allegheny should be placed separately in a class, when nine other cities, including Scranton, Reading, Harrisburg, Lancaster, and Erie are embraced in one class. Placing a single city in a class, gives facilities for objectionable special legislation, under the name of a general law, without any of the constitutional safeguards that have been thrown around special legislation, and nothing but manifest necessity will excuse such classification.

2. The corporate powers of cities should be carefully and strictly defined, and the general powers contained in section No. 2, article II, should not be granted. The danger from the exercise of the powers contained in this

section is more apparent, when we consider the authority given to borrow money, hereafter referred to, and that this bill confers taxing power on all the cities of the State, without limit, either in rate or amount, except, as regulated by the opinion of the authorities levying the tax, as to its necessity. But rarely, if ever, has the Legislature granted powers to any municipal corporation to levy taxes, without fixing some limit as to the amount beyond which it might not go. But this bill proposes a marked change in that respect.

3. Section No. 3, article XVIII, prohibits, in general terms, the borrowing of money, but the succeeding section, No. 4, giving all cities power to borrow money without limit as to amount, when, in the opinion of the taxing authorities, a casualty has occurred requiring an extraordinary expenditure. But few cities of this Commonwealth have now such liberal powers to borrow money, and, in my opinion, it should not be conferred upon any. This section would authorize the borrowing of money to rebuild extensive public works and improvements, and impose on property holders heavy burdens of taxation. And this, in many cases, no doubt, when tax payers, and citizens, generally, if they had opportunity to be heard, would be opposed to the rebuilding of such works and improvements. City officials should have no discretionary power to borrow money at all. Money should be collected by taxation, before it is spent, and a small contingent fund will generally be sufficient to meet all really necessary extraordinary expenditures. And if occasional inconvenience should arise from unforeseen causes, the injury will be far less than that arising from authority to borrow money, whenever it is considered by the taxing power a necessity. I would, however, give cities a power which this bill does not—to borrow money for such permanent improvements as water-works, when authorized by a vote of the qualified electors, but not otherwise.

4. The control of the public schools, should, in all cases, be kept as it has been, separate and distinct from the authority of councils. School affairs have generally been both economically and efficiently managed. There is, no doubt, in some few cities, a tendency to build expensive buildings for high schools, and to afford instruction in higher branches than our school system originally contemplated. Where this has become an evil, it should be corrected, but there is no good reason, judging from past experience, to expect councils to be less extravagant in this respect than school directors or controllers. Councils might, in some cases, save money in the general management of the schools, but it would most likely be saved by lessening their efficiency, shortening the school term, and lowering the grade of teachers. The proposed change is particularly objectionable in requiring school controllers to be chosen, in the larger cities, by electors, on a general ticket. This would make their nomination by a political party almost a necessity. The effect of this bill must be to make the custody of the money raised for educational purposes, as well as the control of the schools, a subject of political contest.

5. The election of members of select council, on a general ticket, must necessarily require political nominations, and will usually have the effect of causing that body to be composed entirely of one political party. In a large city, the voter would likely know but few of the candidates, and as residence in any particular ward is not required, he might not be acquainted with any of them. On this plan, the probability of an objectionable candidate being rejected at the polls, after a nomination by the dominant party, would be very small. The select council is a representative body, and its members should be apportioned to each ward or to contiguous small wards,

if circumstances require it, and elected by their respective wards or districts. I would not recommend a property qualification for members of select council, nor for any other office. The reasons given in the majority report against requiring a property qualification for voters, apply with equal force in regard to officers.

6. The treasurer and controller should be elected by the people. The danger of improper combinations to secure the office of treasurer, if he is nominated by the mayor, and confirmed by councils, would be very great.

The controller should be independent of councils, and free to act as a check upon all other officers. There is no good reason for taking the election of either of these officers away from the people.

The proposed bill gives the mayor of large cities perhaps too much patronage and power in the appointment to, and removal from office, as well as in the right to suspend the execution of contracts, yet it would be better to give him more control of the police than it does. The management of the police of a city by a board, as provided in this bill, has generally been considered a failure, wherever it has been tried.

7. The power of impeachment of city officers is too complicated for effective use by the citizen. It is, at the same time, dangerous to give the select council, composed, as it usually must be when elected on a general ticket, entirely of one political party, the authority provided in this bill, to try accused officers, to define, almost without limit, what shall constitute an impeachable offense, to determine what shall be considered, in each particular case, a corrupt act or practice, mismanagement, mental incapacity, or incompetency, and after a conviction, without a trial by jury, to declare that the accused shall forfeit his office, and be forever thereafter ineligible to any office of trust, honor, or profit under the city government. It might even be doubted whether such power could be granted, or legally exercised.

8. This bill does not specifically repeal any law. It is but one more added to the numerous acts governing our cities. It would certainly be very difficult to determine how far its provisions are inconsistent with other laws remaining in force on the statute book, and which law shall govern in any particular matter. This is more apparent when it is considered that this act does not claim, as I understand it, to be able to supply the details of city government, but leaves this in most cases to existing laws. This is a serious objection to its passage.

The provision in section 27, of the schedule for designating such special acts of Assembly as shall be repealed, and also those that shall be retained, is an unusual plan of legislation. If such a power can be conferred, under the Constitution of the State, I would not consider councils proper bodies to exercise it. It is certainly too much to expect that councils would make a careful and safe examination of this difficult question, involving the most important subjects in relation to the government of cities and the rights of their citizens; when this commission, after full consideration, and after having requested the authorities of the different cities to furnish advice and suggestions in relation to the matter, finally concluded that it was not sufficiently well advised to undertake it.

9. In different parts of the bill, councils of the smaller cities are given authority, in many cases, to either accept or dispense with certain offices provided for larger cities. This is a dangerous power, as the small cities readily imitate larger ones, and the self interest of members of councils will, in time, generally induce them to accept all offices they can, in order to make places for their friends. I consider this feature of the bill very objectionable. The plan proposed by the bill cannot be applied to the



government of the smaller cities, unless it is amended in many important particulars. Many of the provisions which it expressly extends to them, and also many of those which it permits councils to accept, are complicated, and only adapted to the government of large cities. Among these I would enumerate the following, viz: The plan for levying and collecting taxes, including delinquent taxes; filing liens and selling real estate for municipal claims; assessing property; registering real estate; forming new wards; improving streets; the provision for persons to perform duties corresponding to the duties of heads of departments in large cities; the long terms of officers, and the organization of the several executive departments.

In my opinion, the commission should have submitted separate plans for the government of each class of cities necessarily created.

In the performance of my duties, as a member of the commission, and at the instance of the commission, I prepared and reported a plan for the government of all cities containing a population of not more than thirteen thousand, which bill I deem it inexpedient to submit to your honorable bodies, inasmuch as a majority of the commission finally determined to submit but one bill for the government of all cities. The bill submitted by the majority was undergoing important changes, and was not completed until very shortly before the time we were required to make report to the Legislature. And as, up to that time, I had hoped to obtain such changes in it as would have enabled me to unite with the majority in recommending its passage, I had not time to prepare a plan or plans, embracing the amendments I suggest.

10. The power of submitting to a vote of the people, the question whether a city shall surrender its corporate rights, in exchange for a borough organization, without any restriction as to the time within which the question may be again submitted, is certainly calculated to lessen the confidence of citizens in the stability of their municipal government. Such a law would injuriously affect the permanent improvement, careful management, and financial standing of all the smaller cities. If the plan of government was made as simple and plain as it should be, these cities ought to be managed with but little, if any, more expense than that required in a borough organization, and at the same time they would have the advantages of a city government in such matters as controlling territory adjoining the built up portions of the city.

The general plan of the proposed bill seems to be to confer great power upon the mayor and councils, with the expectation that their sense of personal responsibility will induce them to manage the affairs of a city with fidelity. I doubt the success of such a plan. In my opinion, the cities of this Commonwealth have now sufficient power, under existing laws, to govern themselves well. The legislation required to form a "better plan" should be almost entirely of a character defining and limiting the powers already granted, and in some cases restraining their exercise.

All of which is respectfully submitted.

OSCAR L. JACKSON.

*January 1, 1878.*











